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State Corporation Commission
of Kansas

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before the Commissioners: Mark Sievers, Chairman
 Ward Loyd, Commissioner
 Thomas E. Wright, Commissioner

In the Matter of the Investigation of **John C. Tipton,**)
of Meriden, Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and Regulations,)
and the Commission's Authority to Impose Penalties,) Docket No. 12-TRAM-656-PEN
Sanctions and/or the Revocation of Motor Carrier)
Authority)

DIRECT TESTIMONY

OF

VERNA JACKSON

ON BEHALF OF

THE STATE CORPORATION COMMISSION

OF THE STATE OF KANSAS

May 15, 2012

1 Q. Please state your name and business address for the record.

2 A. Verna Jackson

3 1500 SW Arrowhead, Topeka, KS 66604

4 Q. By whom, and in what capacity, are you employed?

5 A. I am a Public Service Administrator II – Special Investigator with the Transportation
6 Division of the Kansas Corporation Commission.

7 Q. Please summarize your educational and professional background.

8 A. I hold a bachelors degree in business from Friends University. I am a Special
9 Investigator responsible for conducting Motor Carrier Compliance Reviews, both on-site
10 and off-site, and I have held this position since February of 2011. I hold a Commercial
11 Vehicle Safety Alliance (CVSA) Level I, Hazardous Materials (Haz Mat) certification.
12 In order to maintain my CVSA status I must conduct 32 Level I inspections, and eight
13 Hazardous Material inspections per year.

14 Q. What is the purpose of your testimony in this proceeding?

15 A. The main purpose of my testimony is to present facts about my contact with John C.
16 Tipton to include my findings in the compliance review I conducted on John C. Tipton on
17 February 21, 2012.

18 Q. What is your understanding of Mr. Tipton's reasons for requesting this hearing?

19 A. In addition to contesting the amount of the fine, Mr. Tipton seems to be criticizing the
20 adequacy of education he received from the Transportation Division.

21 Q. Would you please summarize your initial contacts with Mr. Tipton?

22 A. I called Mr. Tipton on December 12, 2011, to advise him of the need to schedule a
23 compliance review. I followed this conversation up by sending him a letter indicating the

1 items that would need to be available for the inspection at the time of the review.
2 Subsequent to receiving the letter, Mr. Tipton requested a meeting to visit in regards to
3 the regulations, and so we scheduled this meeting for January 4, 2012. However, Mr.
4 Tipton came to my office on December 28, 2011, instead, and we held the educational
5 meeting then. Our Transportation Director, Mike Hoeme, was present for this meeting.
6 At that time, the comprehensive compliance review was scheduled for February 13, 2012,
7 however on the thirteenth, Mr. Tipton indicated he would not be available that day and so
8 the compliance review was rescheduled to February 21, 2012.

9 **Q. What was the reason for the compliance review on John C. Tipton?**

10 A. This review was conducted as a result of the carrier having a USDOT number and no
11 KCC authority. It is the Transportation Division's practice to investigate these types of
12 carriers to determine if they are required to obtain KCC authority.

13 **Q. Where was the review conducted?**

14 A. At the request of the carrier, an off-site comprehensive compliance review was conducted
15 in my office at the Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka,
16 Kansas.

17 **Q. During the compliance review with John C. Tipton, did you discover any violations?**

18 A. Yes. During the compliance review, I identified two violations of Kansas motor carrier
19 safety statutes and regulations. The violations I discovered were:

- 20 1. Failure to confirm drivers are medically examined and physically qualified to
21 operate a commercial motor vehicle; and
- 22 2. Failure to conduct periodic (annual) inspections on commercial motor vehicles.

1 **Q. Ms. Jackson, do both of these violations require the operation of a commercial**
2 **motor vehicle?**

3 A. Yes, the applicable rules are such that a commercial motor vehicle must be operated
4 before not having a medical certification or annual inspection is considered a violation.

5 **Q. Did you document Mr. Tipton operating a commercial motor vehicle prior to your**
6 **compliance review?**

7 A. Yes. During the compliance review, I asked Mr. Tipton when he last operated. He stated
8 he last operated his 1981 Ford F-700 in intrastate commerce from 11th and MacVicar,
9 Topeka, Kansas, to his place of business at 9491 X Road, Meriden, Kansas, on a weekend
10 in January 2012, but was unsure of the specific date. In my recommendation for a
11 penalty order, I evidenced this transportation with the signed statement of John C. Tipton,
12 dated February 21, 2012. A copy of this statement is attached hereto as "Jackson
13 Attachment A."

14 **Q. And for the sake of clarification, did this transportation occur before or after your**
15 **initial educational meeting with Mr. Tipton?**

16 A. The transportation occurred after the December 28, 2011, educational meeting.

17 **Q. Please explain the rule pertaining to the medical exam and physical qualification**
18 **violation.**

19 A. Failing to confirm that each driver is medically examined and certified prior to requiring
20 or permitting the operation of a commercial motor vehicle and maintaining
21 documentation of the medical certificate in the driver qualification file is a violation of 49
22 C.F.R. 391.45(b)(1) and 49 C.F.R. 391.51(b)(7)(i), as adopted by K.A.R. 82-4-3g, and as
23 authorized by K.S.A. 2011 Supp. 66-1,129. 49 C.F.R. 391.45(b)(1) as adopted by K.A.R.

1 82-4-3g requires “any driver who has not been medically examined and certified as
2 qualified to operate a commercial motor vehicle during the preceding 24 months” to be
3 medically examined and certified in accordance with 49 C.F.R. 391.43 as adopted by
4 K.A.R. 82-4-3g. 49 C.F.R. 391.51(b)(7)(i) as adopted by K.A.R. 82-4-3g requires the
5 medical examiner’s certificate as required by 49 C.F.R. 391.43(g) as adopted by K.A.R.
6 82-4-3g, or a legible copy of the certificate, to be maintained in the qualification file for a
7 driver.

8 **Q. Did John C. Tipton maintain a valid medical examiner’s certificate, or copy, in his
9 driver qualification files as required by 49 C.F.R. 391.51(b)(7)(i)?**

10 A. No, there was not a valid certificate in Mr. Tipton’s driver qualification file.

11 **Q. To your knowledge, was John Tipton ever medically examined and certified as
12 physically fit to operate a commercial motor vehicle, in accordance with 49 C.F.R.
13 391.45?**

14 A. Mr. Tipton did possess a medical card, which had expired. The medical card had an
15 expiration date of July 13, 2011.

16 **Q. Please explain the rule pertaining to the periodic (annual) inspection violation.**

17 A. Failing to conduct a periodic (annual) inspection on commercial motor vehicles is a
18 violation of 49 C.F.R. 396.17(a) as adopted by K.A.R. 82-4-3j, and as authorized by
19 K.S.A. 2011 Supp. 66-1,129. 49 C.F.R. 396.17(a), as adopted by K.A.R. 82-4-3j,
20 requires every commercial motor vehicle to be inspected in accordance with the standards
21 set forth in Appendix G of 49 C.F.R. Part 396, as adopted by K.A.R. 82-4-3j.

1 **Q. At the time of the compliance review, could Mr. Tipton provide evidence of an**
2 **inspection satisfying the requirements of 49 C.F.R. 396.17(a) as adopted by K.A.R.**
3 **82-4-3j?**

4 A. No, he could not.

5 **Q. When you met Mr. Tipton for his educational meeting on December 28, 2011, did**
6 **you discuss either of these two requirements?**

7 A. Yes, we discussed both. Because Mr. Tipton was involved in a CDL operation, all safety
8 requirements were explained in detail to the carrier. Mr. Tipton was given the Red Book
9 and was educated on each of the items listed on page 6a, which include medical
10 certification and inspection requirements.

11 **Q. To your knowledge, is Mr. Tipton currently operating?**


12 A. Some time during the week of April 16th, Mr. Tipton advised me that he had sold his
13 1981 Ford F-700 truck. When I asked if he intended to operate in the future, and if he
14 wanted me to deactivate his USDOT number, he was adamant that his USDOT number
15 remain activated, and indicated he intended to continue operations.

16 **Q. Ms. Jackson, is there anything else you would like to share that may aid the**
17 **Commission in making its decision in this matter?**

18 A. No, not at this time. This concludes my testimony.

**JACKSON
ATTACHMENT "A"**

I, John Tipton, operated a 1981 Ford F-700 in commerce on a weekend in January, 2012, (specific date unknown). Dirt was hauled from the customer residence 11th & MacVicar, Topeka, Kansas, to carrier's residence, 9491 X Road, Meriden, Kansas.

 2/21/12
John Tipton Date

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

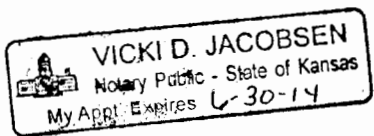
VERIFICATION

Verna Jackson, being duly sworn upon her oath deposes and says that she is Special Investigator for the Transportation Division of the Kansas Corporation Commission of the State of Kansas, that she has read and is familiar with the foregoing *Direct Testimony*, and that the statements contained therein are true and correct to the best of her knowledge, information and belief.

Verna Jackson

Verna Jackson
Public Service Administrator II, Special Investigator
Transportation Division
State Corporation Commission of
The State of Kansas

Subscribed and sworn to before me this 15th day of May, 2012.



Vicki D. Jacobsen

Notary Public

My Appointment Expires: June 30, 2014

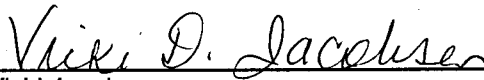
CERTIFICATE OF SERVICE

12-TRAM-656-PEN

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Direct Testimony was placed in the United States mail, postage prepaid, or hand-delivered this 16th day of May, 2012, to the following:

John C. Tipton, OWNER
John C. Tipton
9491X Rd
Meriden, KS 66512-9454

AMBER SMITH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
a.smith@kcc.ks.gov
Hand Delivered



Vicki Jacobsen