

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Investigation of)
Brian F. Lovgren, d/b/a T R L)
Trucking, of Kansas City, Kansas,)
Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and) Docket No. 16-TRAM-153-PEN
Regulations and the Commission's)
Authority to Impose Penalties, Sanctions)
and/or the Revocation of Motor Carrier)
Authority.)

ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION AND BACKGROUND

1. Pursuant to K.S.A. 2015 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2015 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority, and jurisdiction.

2. Pursuant to K.S.A. 2015 Supp. 66-1,129a, 66-1,130, and 66-1,142b, the Commission may suspend operations, revoke, or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of

Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision, or regulation of the Commission.

3. Pursuant to K.S.A. 2015 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

II. FINDINGS OF FACTS

4. Brian F. Lovegren, d/b/a T R L Trucking of Kansas City, Kansas (Respondent) is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108, that operates commercial motor vehicle(s) in intrastate commerce.

5. Respondent operates under USDOT Number 996940.

6. On October 13, 2015, Respondent was issued a penalty assessment for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted on September 11, 2015, by Kansas Corporation Commission Special Investigator B.K. Smith. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

7. The Penalty Order was mailed to Respondent via certified mail, return receipt requested, on October 14, 2015. The Penalty Order was not received by Respondent, and was re-sent by certified U.S. mail on November 19, 2015. Upon this second mailing, the Penalty Order was not returned to the Commission.

8. As of January 6, 2016, Commission records indicate Respondent has not complied with requirements of the Penalty Order in that Respondent had thirty (30) days from service to pay the fine amount of \$3,700, and Transportation Division records

indicate the fine is unpaid. Further, Respondent was mailed a letter dated December 21, 2015, to his mailing address, notifying him of his unpaid fine and lack of compliance with the above-referenced Penalty Order.

III. CONCLUSIONS OF LAW

9. The Commission finds it has jurisdiction over Respondent as the Respondent is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

10. The Commission finds Respondent received sufficient notice of the Commission's Penalty Order and the requirement to pay the fine within 30 days of the Order.

11. The Commission finds Respondent failed to act upon this notice.

12. The Commission finds Respondent's failure to comply with the requirements of the Penalty Order is intentional and therefore this Commission orders the Respondent to suspend all intrastate motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as the carrier takes the necessary steps to become compliant.

THE COMMISSION THEREFORE ORDERS THAT:

A. Brian F. Lovegren, d/b/a T R L Trucking of Kansas City, Kansas is to be immediately suspended from all intrastate commercial motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as Respondent pays the penalty amount of \$3,700 and brings its motor carrier operation into compliance with motor carrier safety statutes, rules and regulations. This Suspension of Intrastate Motor Carrier Operations Order may also attach and apply to the operations of successor entities, including any motor carrier

entity or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

B. Pursuant to K.S.A. 2015 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Secretary, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, return receipt requested, service of this order is complete when Respondent signs the Domestic Return Receipt. If service is by regular U.S. mail, service is complete upon the date of mailing plus three (3) days. Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of Respondent's right to a hearing, and this Order will become a Final Order against Respondent, suspending Respondent's motor carrier operations, ordering Respondent to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance.

C. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2014 Supp. 66-1,142b(e) and amendments thereto.

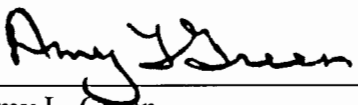
D. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

E. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: JAN 12 2016



Amy L. Green
Secretary to the Commission

MJD

Order Mailed Date

JAN 13 2016

CERTIFICATE OF SERVICE

16-TRAM-153-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

first class mail/hand delivered on **JAN 12 2016**_____.

BRIAN F. LOVGREN, OWNER
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/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

JAN 13 2016