

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

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

In the Matter of the Emergency Suspension of )  
Operating Authority of **Joseph Ndungu of** )  
**Roeland Park, Kansas**, for Failure to Comply ) Docket No. 17-TRAM-067-OOS  
with New Entrant Safety Requirements as )  
Required by the Motor Carrier Safety Statutes, )  
Rules and Regulations. )

**ORDER REINSTATING MOTOR CARRIER OPERATING AUTHORITY**

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission) upon its own motion. The Commission, being fully advised in the premises, finds as follows:

**I. JURISDICTION**

1. Pursuant to K.S.A. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2016 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. 2016 Supp. 66-1,129a, 66-1,130, and 66-1,142b, and amendments thereto, 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. 2016 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. BACKGROUND**

4. Joseph Ndungu is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108 that operates commercial motor vehicle(s) in both intrastate and interstate commerce in a manner that requires authority.

5. Joseph Ndungu is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 1920061.

6. The Commission received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration that Joseph Ndungu's New Entrant Registration had been revoked effective August 22, 2016, for failure to comply with safety requirements.

7. Pursuant to the above authority, on August 30, 2016, the Commission entered an Emergency Suspension of Operating Authority Order on Joseph Ndungu in the above-referenced docket, until such time that Staff recommended reinstatement.

## **III. STAFF'S RECOMMENDATION**

8. On April 6, 2017, the Staff of the Transportation Division of the Kansas Corporation Commission (Staff) received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, that Joseph Ndungu has submitted evidence of

compliance with safety requirements as required in 49 C.F.R. 385.329. As a result, the carrier's reapplication for New Entrant registration under USDOT No. 1920061 has been approved and the carrier's authority to operate in interstate operations has been reinstated. See attached FMCSA reinstatement documentation.

9. Based on the Federal Motor Carrier Safety Administration's reinstatement, it is Staff's recommendation to reinstate Joseph Ndungu's motor carrier operating authority in Kansas.

#### **IV. CONCLUSIONS OF LAW**

10. The Commission finds it has jurisdiction over Joseph Ndungu because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

11. Based on the available facts, the Commission finds that Staff's recommendation to reinstate Joseph Ndungu's operating authority in Kansas is reasonable.

#### **THE COMMISSION THEREFORE ORDERS THAT:**

(A) Joseph Ndungu's certificate, permit or license that is necessary to carry on the business of a private and/or public motor carrier in Kansas is hereby reinstated.

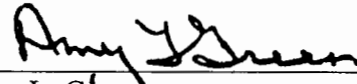
(B) Joseph Ndungu remains obligated to attend a Commission-sponsored safety seminar pursuant to the Emergency Suspension of Operating Authority Order at paragraph B., entered on August 30, 2016.

(C) The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further Orders as it may deem necessary and proper.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: APR 11 2017



Amy L. Green  
Secretary to the Commission

AAL

Order Mailed Date

APR 11 2017



U.S. Department of  
Transportation  
**Federal Motor  
Carrier Safety  
Administration**

JOSEPH NDUNGU  
OWNER  
JOSEPH NDUNGU  
4940 SOUTHRIDGE DRIVE  
ROELAND PARK, KS 66205

1200 New Jersey Ave., S.E.  
Washington, DC 20590  
April 4, 2017

In reply refer to:  
USDOT Number: 1920061  
MC Number: MC687288

**Action Required: Call to schedule a Safety Audit.**

According to Federal Motor Carrier Safety Administration's (FMCSA) records thirty days have elapsed since JOSEPH NDUNGU's USDOT New Entrant registration was revoked on August 22, 2016, and that JOSEPH NDUNGU has reapplied in accordance with 49 CFR 385.329. This is to inform JOSEPH NDUNGU that JOSEPH NDUNGU's reapplication for USDOT New Entrant registration has been approved.

A safety audit has not yet been conducted; JOSEPH NDUNGU should contact your local State Motor Carrier Safety Assistance Program (MCSAP) office 785-296-7189 as soon as possible to schedule a safety audit. In accordance with 49 CFR section 385.337, failure to permit a safety audit to be performed may result in the revocation of JOSEPH NDUNGU's USDOT New Entrant registration and JOSEPH NDUNGU's interstate operation being placed out of service. Additionally, the refusal to submit to a safety audit may also subject a new entrant motor carrier to the penalty provisions in 49 U.S.C. 521(b) (2) (A), as adjusted by inflation.

JOSEPH NDUNGU's 18-month new entrant safety monitoring period restarts as of April 4, 2017. FMCSA will continue to monitor and evaluate JOSEPH NDUNGU's safety management practices and on-road performance to ensure JOSEPH NDUNGU has basic safety management controls that are operating effectively and is complying with Federal requirements including the Federal Motor Carrier Safety Regulations (FMCSRs) and applicable Federal Hazardous Materials Regulations (HMRs). Failure to comply with applicable requirements may result in the revocation of JOSEPH NDUNGU's USDOT New Entrant or permanent registration.

JOSEPH NDUNGU's USDOT number can be found in the upper right hand corner of this letter. This USDOT number should be marked on commercial motor vehicles operated by JOSEPH NDUNGU as required by 49 CFR section 390.21. A copy of the FMCSRs, including this regulation, may be found on the FMCSA web site, <http://safer.fmcsa.dot.gov>.

Sincerely,

Joseph P. DeLorenzo, Director, Office of  
Enforcement and Compliance

**CERTIFICATE OF SERVICE**

17-TRAM-067-OOS

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 **APR 11 2017**.

JOSEPH NDUNGU, OWNER  
JOSEPH NDUNGU  
4940 SOUTHRIDGE DRIVE  
ROELAND PARK, KS 66205

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe  
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DeeAnn Shupe

Order Mailed Date

**APR 11 2017**