

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

In re: Subpoena Duces Tecum Issued by the)
Kansas Corporation Commission to Eagle) Docket No. 18-TRAM-047-MIS
Automotive LLC to Aid in an Investigation of)
the Transportation Division.)

**MOTION TO OPEN DOCKET AND FOR ISSUANCE OF SUBPOENA
IN AID OF AN INVESTIGATION**

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) files its Motion to Open Docket for the purposes of issuing a subpoena in aid of an investigation and for the issuance of a Subpoena Duces Tecum. In support of its Motion, Staff states as follows:

1. Staff seeks to open this docket for the purposes of issuing a Subpoena Duces Tecum in aid of an investigation conducted by the Transportation Division.
2. On June 21, 2017, the Transportation Division received a complaint regarding a carrier of household goods that was operating without proper for-hire authority or adequate insurance. An investigation was opened and assigned to Special Investigator (SI) Verna Jackson.
3. SI Jackson has made repeated attempts to obtain documents necessary to an investigation of the complaint. The documents are in the possession of Eagle Automotive LLC and/or its owner Mark Hobart.
4. Mr. Hobart initially advised SI Jackson that he would comply with the requests for documents, but has not provided any responsive documents. Mr. Hobart does not respond to communications from the Transportation Division for updates on his efforts.

5. Commission Staff ("Staff") submitted a Report and Recommendation regarding its request for the Commission to issue a Subpoena Duces Tecum dated July 26, 2017, attached hereto and made a part hereof by reference. Staff requests that the Commission issue a Subpoena Duces Tecum to Eagle Automotive LLC and its owner Mark Hobart ordering that documents relevant to this investigation and pursuant to St Jackson's previous requests be answered and documents turned over.

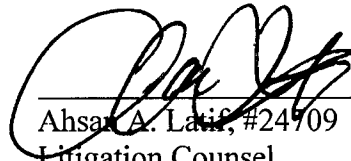
6. The Commission is authorized to issue a subpoena by K.A.R. 82-1-227(a), which states that "subpoenas may be issued by the commission or by any commissioner, or by the presiding officer, upon written petition by any party to the proceeding. Every subpoena shall contain the caption of the docket and shall command each person to whom it is directed to attend and give testimony at the time and place specified." K.A.R. 82-1-227(b) states that a subpoena duces tecum "shall be issued in the same manner and form as a subpoena for the attendance of a witness." The Commission is granted the authority to command the production of "books, papers, documents, or tangible items designated in the subpoena."

7. K.A.R. 82-1-227(c) outlines the requirements for service of the subpoena. Service of the subpoena may be made through restricted mail, the sheriff, the sheriff's deputy or "any other person who is designated by the commission or the party requesting issuance thereof, who is not a party to the proceeding, and who is not less than 18 years of age."

8. Staff requests the Commission issue the Subpoena Duces Tecum, attached hereto and made a part hereof by reference.

WHEREFORE, for the reasons set forth above, Staff respectfully requests the Commission issue an order opening a docket in the above matter and issue the proposed Subpoena Duces Tecum.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ahsan A. Latif', is written over a horizontal line.

Ahsan A. Latif, #24709

Litigation Counsel

Kansas Corporation Commission

1500 SW Arrowhead Road

Topeka, Kansas 66604

(785) 271-3118 (Telephone)

(785) 271-3124 (Facsimile)

For Commission Staff

VERIFICATION

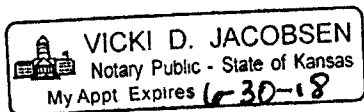
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

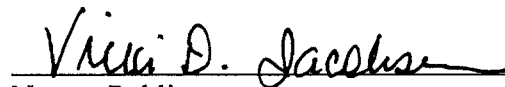
Ahsan A. Latif, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Motion to Open Docket* and attests that the statements therein are true to the best of his knowledge, information and belief.



Ahsan A. Latif, #24709
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 27th day of July, 2017.





Notary Public

My Appointment Expires: 6-30-18

**REPORT AND RECOMMENDATION
TRANSPORTATION DIVISION**

TO: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

FROM: Mike Hoeme, Director of Transportation

DATE: July 26, 2017

DATE SUBMITTED TO LEGAL: July 26, 2017

DATE SUBMITTED TO COMMISSIONERS: July 27, 2017

SUBJECT: Docket No. 18-TRAM-047-MIS
In re: Subpoena Duces Tecum Issued by the Kansas Corporation Commission to
Eagle Automotive LLC to Aid in an Investigation of the Transportation Division.

EXECUTIVE SUMMARY:

The Transportation Division seeks the issuance of a Subpoena Duces Tecum by the Commission in order to aid an ongoing investigation of a motor carrier who is suspected of operating without proper state or federal authority in a manner that is a danger to the motoring public. Eagle Automotive LLC is believed to possess documents crucial to that investigation.

BACKGROUND:

On June 21, 2017, the Transportation Division received a complaint regarding a carrier of household goods that was operating without proper for-hire authority or adequate insurance. An investigation into the carrier was opened and assigned to Special Investigator (SI) Verna Jackson on June 23, 2017. The complaint stated that the suspected carrier rented Penske trucks from Eagle Automotive LLC or its owner Mark Hobart. After initial contact with Mark Hobart, Mr. Hobart advised that the corporate office would need a written request for documents.

On June 28, 2017, a letter was sent by Legal Staff outlining the Commission's powers as an enforcer of motor carrier regulations in the state of Kansas and its authority to investigate violations of applicable statutes, rules and regulations.

To date there has been no response from Eagle Automotive LLC or Mark Hobart. Repeated phone calls to the Eagle Automotive LLC and its owner have not been returned.

Transportation Staff requests that the Commission issue a Subpoena Duces Tecum to Eagle Automotive LLC and its owner Mark Hobart ordering that documents relevant to this investigation and pursuant to SI Jackson's previous requests be answered and documents turned over.

ANALYSIS:

The Commission is authorized to issue a subpoena by K.A.R. 82-1-227(a), which states that "subpoenas may be issued by the commission or by any commissioner, or by the presiding officer, upon written petition by any party to the proceeding. Every subpoena shall contain the caption of the docket and shall command each person to whom it is directed to attend and give testimony at the time and place specified." K.A.R. 82-1-227(b) states that a subpoena duces tecum "shall be issued in the same manner and form as a subpoena for the attendance of a witness. The Commission is granted the authority to command the production of "books, papers, documents, or tangible items designated in the subpoena.

K.A.R. 82-1-227(c) outlines the requirements for service of the subpoena. Service of the subpoena may be made through restricted mail, the sheriff, the sheriff's deputy or "any other person who is designated by the commission or the party requesting issuance thereof, who is not a party to the proceeding, and who is not less than 18 years of age."

RECOMMENDATION:

Transportation Staff recommends the Commission open a docket for the purposes of issuing the attached Subpoena Duces Tecum. Issuing the Subpoena Duces Tecum would allow SI Jackson to continue her investigation into the carriers involved in this complaint. The investigation is conducted in order to preserve the safety of the motoring public and is therefore in the public interest.

1. Any business records or documents (i.e. contracts, rental agreements, receipts, notes, etc.) of Eagle Automotive, LLC or Mark Hobart regarding any entity known as either A&A Truck Rental, 3Men with a Truck & Trailer LLC, A&A Moving or Hauling

Services, 3Men with a Truck or 3Men with a Truck & Trailer with a possible US DOT # of 1439297.

2. Any business records or documents (i.e. contracts, rental agreements, receipts, notes, etc.) of Eagle Automotive, LLC or Mark Hobart, regarding any entity known as Jayhawk Moving and Storage with a possible US DOT # of 1439297.
3. Any business records or documents (i.e. contracts, rental agreements, receipts, notes, etc.) of Eagle Automotive, LLC or Mark Hobart, regarding Allied Bailey Moving & Storage d/b/a Bailey Moving and Storage Company with a possible US DOT # of 955331.
4. Any business records or documents (i.e. contracts, rental agreements, receipts, notes, etc.) of Eagle Automotive, LLC or Mark Hobart, regarding any Penske trucks rented out for use by Kent Lindemuth, Member, Allied Bailey Moving & Storage Co, LLC.
5. Any business records or documents (i.e. contracts, rental agreements, receipts, notes, etc.) of Eagle Automotive, LLC or Mark Hobart, regarding any Penske trucks rented out for use for a time period that included June 8, 2017, and June 9, 2017.

For information regarding your appearance or production of the above documents please contact Special Investigator Verna Jackson at (785) 271-3104.

The records described in this subpoena shall be accompanied by the affidavit of a custodian of the records, a form for which is attached to this subpoena.

Dated: ____

Lynn M. Retz
Secretary to the Commission

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

In re: Subpoena Duces Tecum Issued by the)
Kansas Corporation Commission to Eagle)
Automotive LLC to aid in an investigation of the) Docket No. 18-TRAM-047-MIS
Transportation Division.)

AFFIDAVIT OF CUSTODIAN OF BUSINESS RECORDS

I, _____, being first duly sworn, on
oath, depose and say that: I am a duly authorized custodian of the business records of _____
_____ and have the authority to certify
those records.

The copy of the records attached to this affidavit is a true copy of the records described in
the subpoena.

The records were prepared by the personnel or staff of the business, or persons acting
under their control, in the regular course of the business at or about the time of the act, condition
or event recorded.

(Signature of Custodian)

Subscribed and sworn to before the undersigned on the _____ day of _____,

My appointment Expires: _____
(Notary Public)

CERTIFICATE OF MAILING

I hereby certify that on _____, I mailed a copy of the
above affidavit to _____ at _____ by depositing it
with the United States Postal Service for delivery with postage prepaid.

(Signature of Custodian)

Subscribed and sworn to before the undersigned on _____, 2017.

My Appointment Expires: _____
(Notary Public)

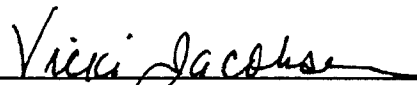
CERTIFICATE OF SERVICE

18-TRAM-047-MIS

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Open Docket and for Issuance of Subpoena in Aid of an Investigation was placed in the United States mail, postage prepaid, or hand-delivered this 28th day of July, 2017, to the following

VINCENT A. WASIK, REGISTERED AGENT
EAGLE AUTOMOTIVE, LLC
303 S KANSAS AVENUE
TOPEKA, KS 66603

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



Vicki Jacobsen