

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

In the Matter of the General Investigation of)
Garrett Benjamin d/b/a Garrett)
Benjamin Farms of Council Grove,)
Kansas, Pursuant to the Kansas Highway) Docket No. 17-GIMM-343-KHP
Patrol Issuance of a Notice of Violation(s))
and Invoice for the Violations of the Kansas)
Motor Carrier Safety Statutes, Rules and)
Regulations.

MOTION TO CANCEL MAY 24, 2017 EVIDENTIARY HEARING

The Staff of the State Corporation Commission of the State of Kansas (Staff), by and through its counsel, files its motion requesting the Commission to cancel the Evidentiary Hearing scheduled for May 24, 2017 as the parties have reached a settlement of the issues related to the Request for Hearing filed by Garrett Benjamin (Respondent). In support of its Motion, Staff states as follows:

1. On December 5, 2016, the Kansas Highway Patrol issued a Notice of Violation(s) against Garrett Benjamin (Respondent), for alleged violations found during a November 29, 2016, routine motor carrier stop and inspection conducted by the Kansas Highway Patrol (KHP).

1. As a result of this inspection, Respondent was assessed \$450 in civil fines, comprised of the following violations: a \$150.00 fine for No/Improper Breakaway or Emergency Braking, citing 393.43, a \$150.00 fine for Leaking/Spilling/Blowing/Falling Cargo, citing 393.100B, a \$150.00 fine for Inoperative Turn Signal, citing 393.9TS, and a \$0.00 fine for Brake OOS (#defective = or > 20%), citing 396.3A1BOS.

2. On December 31, 2016, Respondent initiated a formal challenge with the KHP.

3. On January 6, 2017, the Kansas Highway Patrol denied Respondent's challenge and advised Respondent of its right to an administrative hearing before the Commission.

4. On January 22, 2017, Respondent requested a hearing before the Commission.
5. On March 28, 2017, the Commission issued an Order Setting Hearing for May 24, 2017 at 9:00 a.m.
6. On May 4, 2017, Garrett Benjamin, Respondent; Mike Hoeme, Director of the Commission's Transportation Division; Gary Davenport, Deputy Director of the Commission's Transportation Division; and Ahsan A. Latif, Litigation Counsel for Staff informally discussed the possibility of a settlement. During this and subsequent informal discussions, Staff and Respondent were able to reach mutually agreeable terms in anticipated settlement of the issues. It was agreed that Staff would subsequently reduce the terms to writing and forward the draft to Respondent for approval and signature.
7. Staff has sent a Joint Motion and Stipulated Settlement Agreement to Respondent and will file both with the Commission for approval as soon as they are returned.
8. Nothing in the Kansas Administrative Procedure Act shall preclude the Commission's Transportation Staff (Staff) and Respondent from reaching an informal settlement, subject to formal Commission approval. See K.S.A. 77-505.
9. Staff has contacted Respondent and there is no opposition to the filing of this motion and the cancellation of the evidentiary hearing scheduled in this docket.

WHEREFORE, for the reasons stated above, Staff respectfully requests that the Commission issue an order cancelling the Evidentiary Hearing scheduled in this proceeding for May 24, 2017.

Respectfully submitted,

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

Ansan A. Latif #24709

Litigation Counsel

Kansas Corporation Commission

1500 SW Arrowhead Road

Topeka, Kansas 66604

(785) 271-3181 (Telephone)

(785) 271-3124 (Facsimile)

a.latif@kcc.ks.gov (E-mail)


For Commission Staff

VERIFICATION

17-GIMM-269-KHP

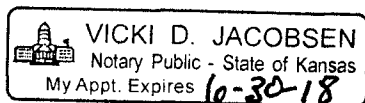
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

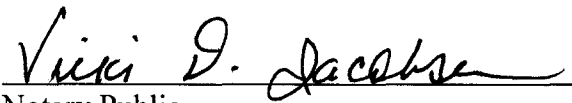
Ahsan A. Latif, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Motion to Cancel May 24, 2017 Evidentiary Hearing*, and attests that the statements therein are true and correct to the best of his knowledge, information and belief.



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

SUBSCRIBED AND SWORN to before me this 11th day of May, 2017.





Notary Public

My Appointment Expires: June 30, 2018

CERTIFICATE OF SERVICE

17-GIMM-343-KHP

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Cancel May 24, 2017 Evidentiary Hearing was served via electronic service this 11th day of May, 2017, to the following:

GARRETT BENJAMIN, OWNER
GARRETT BENJAMIN
D/B/A GARRETT BENJAMIN FARMS
2450 S 500 RD
COUNCIL GROVE, KS 66846
garretb69@yahoo.com

BRIAN G. FEDOTIN, DEPUTY GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3314
b.fedotin@kcc.ks.gov

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