

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Suspension of Operating)
Authority of **Pyramid Moving LLC d/b/a**)
Longhorn Cargo of Mission, Kansas, for)
Failure to Comply with New Entrant Safety) Docket No. 24-TRAM-783-OOS
Requirements as Required by the Motor Carrier)
Safety Statutes, Rules and Regulations.)

**ORDER ADOPTING THE FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION'S ORDER AND SUSPENDING OPERATING AUTHORITY**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") for consideration and decision. Having reviewed the records and being duly advised in the premises, the Commission makes the following findings:

I. Background

1. On March 22, 2024, the Federal Motor Carrier Safety Administration ("FMCSA") forwarded a notice of violation(s) of the federal motor carrier safety regulations to Pyramid Moving LLC d/b/a Longhorn Cargo ("Carrier"), wherein Carrier was given 60 days to comply with the regulations or interstate motor carrier operations would be revoked.¹

2. On May 22, 2024, FMCSA issued an Unsatisfactory Safety Rating letter ("Federal Order"), attached hereto as Attachment "A" and is hereby incorporated by reference, due to Carrier's failure to agree to the FMCSA's safety audit.

¹ See Attachment A.

3. Pursuant to the Federal Order, Carrier's operations were placed out of service immediately and Carrier must immediately cease all interstate motor carrier operations in the United States.²

II. Legal Standards

4. Pursuant to K.S.A. 66-1,108b, 66-1,111, 66-1,112, and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. 390.5 and as adopted by K.A.R. 82-4-3f, 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.

5. Pursuant to K.S.A. 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.

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

III. Analysis

7. Carrier is a motor carrier as defined in 49 C.F.R. 390.5 and as adopted in K.A.R. 82-4-3f, which operates commercial motor vehicle(s) in interstate commerce in a manner that requires Commission authority.

² See Attachment A.

8. Carrier is registered as a motor carrier with the U.S. Department of Transportation (“USDOT”), and operates under USDOT Number 2210417.

9. The Commission considers Carrier received sufficient notice from the FMCSA of the violation(s) of motor carrier safety rules and regulations, and a requisite opportunity to correct the violation(s) and to obtain compliance. However, Carrier failed to act upon the FMCSA’s notice.

10. The Commission considers Carrier’s failure to improve its safety rating is sufficient evidence of unsafe motor carrier operations, and as such poses a potential immediate threat to the safety and welfare of the public of the state of Kansas.

11. Therefore, the Commission finds that it is imperative to the safety and welfare of the public of the state of Kansas that the Federal Order be adopted and that the Carrier’s intrastate motor carrier operations be suspended, other than such motor carrier operations excepted from the Commission’s regulation under K.S.A. 66-1,129, until such time as the carrier takes the necessary steps to become compliant. This includes submitting to the Commission verifiable evidence of the correction of the violation(s) noted in Federal Order including, but not limited to, proof of federal reinstatement and attendance of a Commission-sponsored safety seminar within ninety (90) days from the date of this Order. A schedule of dates and locations for the safety seminar can be found at the Commission’s website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The proof of attendance at the safety seminar should be submitted to Litigation Counsel.

THEREFORE, THE COMMISSION ORDERS:

A. The Federal Motor Carrier Safety Administration’s Unsatisfactory Safety Rating letter issued on May 22, 2024 is hereby accepted and adopted.

- B. Pyramid Moving LLC d/b/a Longhorn Cargo of Mission, Kansas is to be immediately suspended from all intrastate Kansas commercial motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as Carrier presents to Staff verifiable evidence, including, but not limited to, proof of federal reinstatement documenting the correction of the safety concerns identified in the FMCSA's March 22, 2024, Unsatisfactory Safety Rating letter. This 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 suspend operating authority.
- C. Pyramid Moving LLC d/b/a Longhorn Cargo is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance.
- D. **Pursuant to K.S.A. 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 Executive Director, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Order.** 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 Carrier's right to a hearing, and this Order will become a Final Order.
- E. 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.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 06/11/2024

Lynn M. Retz

Lynn M. Retz
Executive Director

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ATTACHMENT “A”



U.S. Department of
Transportation
1200 New Jersey Ave. S.E.
Washington, D.C. 20590

**Federal Motor Carrier
Safety Administration**

**PYRAMID MOVING LLC
5845 HORTON SUITE 2
MISSION, KS 66202**

60 Day Property Carrier

March 22, 2024

In reply refer to:
USDOT Number: **2210417**
Review No.: 2113053/CR

Dear UMID OLIMOV:

The proposed motor carrier safety rating for your company is:

UNSATISFACTORY

This proposed UNSATISFACTORY rating is the result of an onsite compliance review and evaluation of your safety fitness completed on March 20, 2024. An UNSATISFACTORY rating indicates that your company does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences of violations listed in 49 CFR 385.5(a-k), and indicates that your company is operating at an unacceptable level of compliance.

Under 49 CFR 385.13, a motor carrier that receives a final safety rating of UNSATISFACTORY is prohibited from operating a commercial motor vehicle in interstate and intrastate commerce. Additionally, 49 USC 31144 and 49 CFR 385.13(a)(1) provide that this prohibition takes effect unless, within 60 days of the date of this notice, you take the necessary steps to improve the rating to conditional or satisfactory.

Pursuant to 49 USC 13905(f)(1)(B), the registration of a motor carrier that has been prohibited from operating in interstate and intrastate commerce for failure to comply with the safety fitness requirement shall be revoked.

UNLESS YOU IMPROVE YOUR PROPOSED UNSATISFACTORY RATING, IT WILL BECOME FINAL AND YOU WILL BE PROHIBITED FROM OPERATING COMMERCIAL MOTOR VEHICLES IN INTERSTATE AND INTRASTATE COMMERCE BEGINNING ON MAY 22, 2024, AND YOUR REGISTRATION SHALL BE REVOKED, IF APPLICABLE.

If you have been subject to any Order(s), prohibition(s), registration suspension(s) and/or registration revocation(s) in any other case(s) or proceeding(s), the prohibitions and registration revocation in this case will be in addition to, and will not supersede, amend, or modify any Orders, notices, and/or requirements in any other case(s) or proceeding(s). Further, the orders, prohibitions and/or registration revocation 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 a "final" unsatisfactory safety rating.

Immediate action must be taken to correct any deficiencies or violations discovered during the compliance review. Your operation was found to be deficient with respect to the applicable safety regulations in the following areas:

- Part 391 QUALIFICATIONS OF DRIVERS
- Part 392 DRIVING OF MOTOR VEHICLES
- Part 383 COMMERCIAL DRIVERS LICENSE
- Part 382 CONTROLLED SUBSTANCE AND ALCOHOL USE AND TESTING
- Part 390 GENERAL REGULATIONS
- Part 396 INSPECTION, REPAIR AND MAINTENANCE
- Part 395 HOURS OF SERVICE OF DRIVERS

RECORDABLE CRASH RATE

Please refer to the copy of the compliance review left at your office for more specific guidance regarding areas in need of corrective action.

APPEAL RIGHTS: Owners or operators of commercial motor vehicles may appeal the proposed safety rating in the following manners:

<A> **REQUESTS FOR A CHANGE TO SAFETY RATING BASED UPON CORRECTIVE ACTIONS (49 CFR 385.17):** A request for a change to a safety rating for a corrective action may be made at any time. This request must be made in writing to the FMCSA Service Center for the geographic area where the carrier maintains its principal place of business (See 49 CFR 390.27). The request must be based upon evidence that the carrier has taken corrective actions and that its operations currently meet the safety fitness standards and factors specified in 49 CFR 385.5 and 385.7. The FMCSA will make a final determination based upon the documentation submitted and any other additional relevant information. A written decision will be issued by the FMCSA. Any motor carrier whose request for change is denied may, within 90 days after the denial, request administrative review under 49 CFR 385.15.

 ADMINISTRATIVE REVIEW (49 CFR 385.15): A request may be made to the FMCSA to conduct an administrative review if you believe that an error was committed in assigning the proposed safety rating or when your request under 49 CFR 385.17 was denied. This request must be made within 90 days of the date of the proposed safety rating issued under 49 CFR 385.11(c) or within 90 days of an Order denying your request for a rating change under 49 CFR 385.17.

Owners or operators may seek administrative review (49 CFR 385.15) by filing a Petition for Review at the following address: U.S. DOT Dockets, United States Department of Transportation, 1200 New Jersey Ave., S.E., Washington, DC 20590. A copy of the Petition **MUST** also be sent to: The Chief Safety Officer, Federal Motor Carrier Safety Administration (Attention: Adjudications Counsel), 1200 New Jersey Ave., S.E., Washington, DC 20590. The appeal should include a copy of this compliance review and the forthcoming official notice from the FMCSA headquarters office. All subsequent filings must also be served in the same manner.

The FMCSA will conduct a review of the request and issue a decision within 30 days of receipt of that request (49 CFR 385.15(e)(1) and 385.17(e)(1)). The FMCSA highly recommends that hazardous material and passenger owners and operators file requests for administrative review (49 CFR 385.15) within 15 days from the date on the notice of the "proposed" rating (49 CFR 385(c)(1)). This will allow sufficient time to review the request and issue a written decision before the prohibitions on operating in interstate and intrastate commerce take effect. Administrative review requests must be made within 90 days of the date on the notice of the "proposed" rating (49 CFR 385.15(c)(2)). However, failure to petition within 15 days from the date on the notice of the "proposed" rating may prevent the FMCSA from issuing a final decision before the prohibitions on interstate and intrastate transportation and, if applicable, the registration revocation take effect (49 CFR 385.15(c)(1)).

A petition to contest the rating or a request for a change in the rating will not automatically postpone the effective date of your final rating.

You may obtain further information from the local Federal Motor Carrier Safety Information office listed below:

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
1303 SW FIRST AMERICAN PL STE 200
TOPEKA, KS 66604-4040
Telephone No.: 785-271-1260

Sincerely,



David J. Yessen
Chief, Compliance Division

CERTIFICATE OF SERVICE

24-TRAM-783-OOS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 06/11/2024.

AHSAN LATIF, LITIGATION COUNSEL
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Mission, KS 66202
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/S/ KCC Docket Room
KCC Docket Room