

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 Investigation of Royer )  
Brothers Tree Service, LLC of Sterling, )  
Kansas, Regarding the Violation of the Motor )  
Carrier Safety Statutes, Rules and Regulations ) Docket No. 18-TRAM-004-PEN  
and the Commission's Authority to Impose )  
Penalties, Sanctions and/or the Revocation of )  
Motor Carrier Authority. )

**ORDER AMENDING PENALTY ORDER**

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

**BACKGROUND**

1. On July 11, 2017, this Commission issued a Penalty Order to Royer Brothers Tree Service, LLC (hereinafter Royer Brothers), assessing it a civil penalty of \$250, in accordance with the FY 2018 Uniform Penalty Assessment Matrix. The penalty(s) was for one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations.

2. Royer Brothers was advised that it was a New Entrant motor carrier being reviewed for the first time, and was eligible for a reduced penalty of fifty-percent (50%), as long as it complies with the terms and obligations described in the Notice of Penalty Assessment, the Reduced Penalty Agreement and as set out below.

3. On August 2, 2017, Staff filed a Motion to Amend Penalty Order, recommending the Commission assess Royer Brothers a fifty-percent (50%) reduced penalty of \$125, and set out specific terms and obligations for Royer Brothers's compliance.

4. Staff states that on July 18, 2017, Royer Brothers submitted the signed Reduced Penalty Agreement. A copy of the Reduced Penalty Agreement was attached to Staff's Motion. The carrier submitted a Corrective Action Plan (CAP), which has been approved by Transportation Staff.

### **FINDINGS OF FACT**

5. The Penalty Order issued on July 11, 2017, assessed Royer Brothers a civil penalty(s) of \$250 for one (1) violation(s) of the motor carrier safety statutes, rules and regulations.

6. Staff recommended in its Motion that due to Royer Brothers's agreement to comply with the terms and obligations for a fifty-percent (50%) reduced penalty and approval of its CAP, an Amended Penalty Order should be issued by the Commission assessing it a reduced penalty of \$125, and setting out the terms and obligations as stated in its motion.

7. K.S.A. 66-1,142c authorizes the Commission to determine the amount of civil penalty and states in pertinent part:

"Any civil penalty may be compromised by the state corporation commission. In determining the amount of the penalty or the amount agreed in compromise, the appropriateness of the penalty to the size of the business, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, shall be considered."  
(emphasis added)

### **IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) The civil penalty of \$250 assessed to Royer Brothers Tree Service, LLC in the Penalty Order dated July 11, 2017, is hereby amended to \$125.

(B) This Amended Penalty Order was mailed on August 15, 2017, via certified mail, return receipt requested, Certified Receipt No. 70161970000105740136. Service is complete upon the date the carrier signs the Domestic Return Receipt. Payment of the reduced amount is due within thirty (30) days from the date of service of this Amended Penalty Order. Payment of \$125 must be made through your personal account with the Kansas Corporation Commission's KTRAN application located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

(C) Royer Brothers is ordered to, within thirty (30) days from the date of the Penalty Order dated July 11, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and submit proof of attendance to Litigation Counsel.

(D) Royer Brothers must submit to a follow-up compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact Royer Brothers to schedule the review.

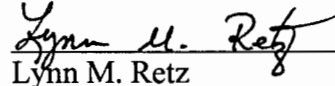
(E) If Royer Brothers fails to pay the reduced fine of \$125 and/or fails to comply with the terms and conditions ordered above, the Commission may order Royer Brothers additional sanctions, including enforcement of an out-of-service order, revoking its authority or any further sanctions as the Commission deems necessary.

(F) The Commission retains jurisdiction over the subject matter and the 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: AUG 15 2017

  
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Lynn M. Retz  
Secretary to the Commission

AAL

**Order Mailed Date**

**AUG 16 2017**

**CERTIFICATE OF SERVICE**

18-TRAM-004-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 AUG 15 2017.

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/S/ DeeAnn Shupe  
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DeeAnn Shupe

Order Mailed Date  
AUG 16 2017