

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

In the Matter of the Investigation of **David**)
Brandyberry, d/b/a B Bar K Tree)
Service, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 18-TRAM-069-PEN
Regulations and the Commission's)
Authority to Impose Penalties, Sanctions)
and/or the Revocation of Motor Carrier)
Authority.)

STAFF'S MOTION TO WITHDRAW

The Staff of the State Corporation Commission of the State of Kansas (Staff), by and through its counsel, files its Motion to withdraw its previous motion to have the Commission suspend David Brandyberry, d/b/a B Bar K Tree Service of Lenora, Kansas (Respondent) from all intrastate commercial motor carrier operations. In support of its Motion, Staff states as follows:

1. Respondent is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108, that operates commercial motor vehicle(s) in intrastate commerce.
2. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 2476800.
3. On August 17, 2017, the Commission issued a Penalty Order in this docket, assessing Respondent a civil penalty for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review on July 19, 2017, by Kansas Corporation Commission Special Investigator Penny Fryback.
4. On August 31, 2017, the Commission issued an Order Amending Penalty Order, reducing the civil penalty to \$100.
5. The Respondent was served with the Penalty Order via certified mail, return receipt requested on August 21, 2017. A Proof of Service was filed in this docket on September 8, 2017. The Respondent was mailed the Order Amending Penalty Order, dated August 31, 2017. The Respondent had 33 days from August 31, 2017, to pay the civil penalty of \$100.

6. Respondent was sent a collection letter on October 19, 2017, reminding it of the amount due and giving it 10 days from the date of the collection letter to pay.

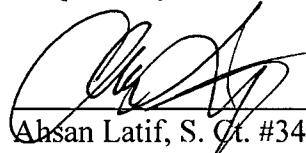
7. As of October 31, 2017, the Commission records indicated Respondent failed to comply with the requirements of the Commission's Order Amending Penalty Order, dated August 31, 2017. Therefore, on October 31, 2017, Staff filed a Motion to Suspend Respondent's Intrastate Motor Carrier Operations.

8. On November 1, 2017, Respondent remitted the full \$100 civil penalty to the Transportation Division, thus obviating the need to suspend Respondent's operations.

9. Staff therefore withdraws its October 31, 2017, Motion to Suspend Intrastate Motor Carrier Operations, and asks the Commission to find that Respondent has, to date, properly complied with the requirements of the Commission's Order Amending Penalty Order.

WHEREFORE, for the reasons stated above, Staff respectfully requests to withdraw its October 31, 2017, motion and requests that the Commission take no action on the motion.

Respectfully submitted,



Ahsan Latif, S. Ct. #34709
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For Commission Staff

VERIFICATION

18-TRAM-069-PEN

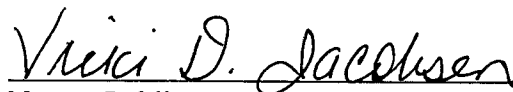
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

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 Withdraw*, 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 6th day of November, 2017.


Notary Public

My Appointment Expires: June 30, 2018


CERTIFICATE OF SERVICE

18-TRAM-069-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Withdraw was served via electronic service this 6th day of November, 2017, to the following:

DAVID BRANDYBERRY, OWNER
DAVID BRANDYBERRY
D/B/A B BAR K TREE SERVICE
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Vicki Jacobsen