

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

In the Matter of the Investigation of **C & D**)
Transport LLC of Garden City, Kansas,)
Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and) Docket No. 25-TRAM-172-PEN
Regulations and the Commission's)
Authority to Impose Penalties, Sanctions)
and/or the Revocation of Motor Carrier)
Authority.)

MOTION TO SUSPEND INTRASTATE MOTOR CARRIER OPERATIONS

The Staff of the State Corporation Commission of the State of Kansas (Staff), by and through its counsel, files its motion requesting the Commission suspend C & D Transport LLC of Garden City, Kansas (Carrier) from all intrastate commercial motor carrier operations. In support of its Motion, Staff states as follows:

1. 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 40 C.F.R. 390.5 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.

2. 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.

3. Pursuant to K.S.A. 66-1,105, “[e]very order and decision of the commission on matters covered by this act shall become operative and effective within 30 days after service, and

the motor carrier shall carry the provisions of the order into effect, unless the order is enjoined or set aside by a court of proper jurisdiction.”

4. Carrier is a motor carrier as defined in 49 C.F.R. Part 390.5, as adopted by K.A.R. 82-4-3f, that operates commercial motor vehicle(s) in intrastate commerce.

5. Carrier is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT number 4030972. Carrier’s USDOT Profile was updated on October 2, 2023, by the filing of an MCS-150 form that lists its current physical and mailing address, phone number and email address. A copy of Carrier’s MCS-150 form is attached hereto as Attachment “A” and is hereby incorporated by reference.

6. On November 21, 2024, the Commission issued Carrier a Penalty Order that assessed a civil penalty of \$11,650 for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted by a Staff Special Investigator on August 23, 2024, through September 16, 2024. In the Penalty Order, the Carrier was ordered to pay the \$11,650 civil penalty within thirty (30) days of service, to attend a Commisison-sponsored safety seminar within thirty (30) days of the date of the Penalty Order, and to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of the Penalty Order.

7. Pursuant to K.S.A. 66-1,105, the Carrier was sent the Penalty Order via U.S. certified mail, return receipt requested, on November 21, 2024. According to Legal Staff, the Penalty Order was returned as undelivered on December 27, 2024. Pursuant to K.S.A. 77-613, the Penalty Order was deposited in U.S. mail to the same address on December 27, 2024. The second attempt at service has not returned. An affidavit of Ann Murphy, Administrative Assistant for Legal Staff is attached hereto as Attachment “B.” *See also* K.A.R. 82-1-216.

8. K.S.A. 66-1,105 states that “orders and decisions potentially resulting in a negative impact upon any motor carrier’s authority...shall be served by certified mail, return receipt requested.” Staff sent the Penalty Order to Carrier at its last known address by certified mail, return receipt requested. The Kansas Administrative Procedures Act at K.S.A. 77-613 states that service shall be made by “mailing a copy of it to them at their last known addresses” and further that “service by mail is complete upon mailing.” Staff also sent the Penalty Order by U.S. first class mail on December 27, 2024. “When a court is presented with a general statute and a specific statute governing the same circumstances, the court should attempt to read the statutes together in harmony with one another. If the statutes cannot be read in harmony, the specific statute will generally control over the general statute, unless a contrary intent is clearly expressed by the legislature.” *See In re Guardianship of Sokol*, 40 Kan. App. 2d 57, 63, 189 P.3d 526, 531 (2008).

9. The Carrier was served with the Penalty Order via U.S. first class mail on December 27, 2024. The Carrier had 30 days from the date served to pay the civil penalty of \$11,650, 30 days from the date of the Penalty Order to attend a Commission-sponsored safety seminar and 30 days from the date of the Penalty Order to submit a CAP.

10. To date, the Carrier has failed to submit a CAP that has been approved by Transportation Staff, failed attend a Commission-sponsored safety seminar, and failed to pay their civil penalty.

11. Carrier was sent a collection letter to the mailing address listed on its MCS-150 form on January 14, 2025, notifying it of its unpaid fine and lack of compliance with the above-referenced Penalty Order, giving it 10 days from the date of the collection letter to do so. A copy of the collection letter is attached hereto as Attachment “C” and is hereby incorporated by reference.

12. As of February 26, 2025, Commission records indicate that Carrier has not complied with the collection letter or the requirements of the Penalty Order.

13. Staff requests the Commission find that Carrier received sufficient notice of the requirement to comply with the Penalty Order issued November 21, 2024, including written notice by the collection letter sent January 14, 2025.

14. Staff asks that the Commission find Carrier failed to respond and has not complied with the Commission's Penalty Order, which is a violation of K.S.A. 66-1,105 and 66-1,142b.

15. Based on the presented facts, Staff requests the Commission issue an order suspending Carrier's intrastate motor carrier operations until such time as Carrier submits a CAP that meets the approval of Transportation Staff, attend a Commission-sponsored safety seminar, and pay their civil penalty, at which time Staff will recommend the Commission enter an order of reinstatement of intrastate motor carrier operations.

WHEREFORE, for the reasons stated above, Staff respectfully requests that the Commission issue an order suspending Carrier's intrastate motor carrier.

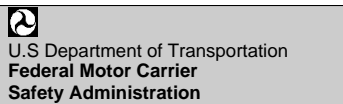
Respectfully submitted,

/s/ Ahsan A. Latif

Ahsan A. Latif, #24709
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604
(785) 271-3118 (Telephone)
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ahsan.latif@ks.gov (E-mail)

For Commission Staff

ATTACHMENT “A”



MOTOR CARRIER IDENTIFICATION REPORT

(Application for U.S. DOT NUMBER)

REASON FOR FILING (Check Only One)
 NEW APPLICATION BIENNIAL UPDATE OR CHANGES OUT OF BUSINESS NOTIFICATION REAPPLICATION (AFTER REVOCATION OF NEW ENTRANT)

1. NAME OF MOTOR CARRIER C & D TRANSPORT LLC		2. TRADE OR D.B.A. (DOING BUSINESS AS) NAME			
3. PRINCIPAL ADDRESS 809 JENNY AVE		4. CITY GARDEN CITY	5. STATE/PROVINCE KANSAS	6. ZIP CODE + 4 67846	7. COLONIA (MEXICO ONLY)
8. MAILING ADDRESS 809 JENNY AVE		9. CITY GARDEN CITY	10. STATE/PROVINCE KANSAS	11. ZIP CODE+4 67846	12. COLONIA (MEXICO ONLY)
13. PRINCIPAL BUSINESS PHONE NUMBER (620) 444-0585		14. PRINCIPAL CONTACT CELL PHONE NUMBER (620) 444-0585		15. PRINCIPAL BUSINESS FAX NUMBER	
16. USDOT NO. 4030972	17. MC OR MX NO.	18. DUN & BRADSTREET NO.	19. IRS/TAX ID NO. EIN# SSN#		
20. INTERNET E-MAIL ADDRESS DANIELRAMON712@YAHOO.COM			21. CARRIER MILEAGE (to nearest 10,000 miles for Last Calendar Year) YEAR 1 2022		

22. COMPANY OPERATION (Mark all that apply)
 A. Interstate Carrier B. Intrastate Hazmat Carrier C. Intrastate Non-Hazmat Carrier D. Interstate Hazmat Shipper E. Intrastate Hazmat Shipper F. Vehicle Registrant Only

23. OPERATION CLASSIFICATION (Circle All that Apply)

<input checked="" type="radio"/> A. Authorized For-Hire	<input type="radio"/> D. Private Passengers (Business)	<input type="radio"/> G. U. S. Mail	<input type="radio"/> J. Local Government
<input checked="" type="radio"/> B. Exempt For-Hire	<input type="radio"/> E. Private Passengers (Non-Business)	<input type="radio"/> H. Federal Government	<input type="radio"/> K. Indian Tribe
<input type="radio"/> C. Private Property	<input type="radio"/> F. Migrant	<input type="radio"/> I. State Government	<input type="radio"/> L. Other

24. CARGO CLASSIFICATIONS (Circle All that Apply)

<input type="radio"/> A. GENERAL FREIGHT	<input type="radio"/> F. LOGS, POLES, BEAMS, LUMBER	<input type="radio"/> J. FRESH PRODUCE	<input checked="" type="radio"/> P. GRAIN, FEED, HAY	<input type="radio"/> V. COMMODITIES DRY BULK	<input type="radio"/> BB. CONSTRUCTION
<input type="radio"/> B. HOUSEHOLD GOODS	<input type="radio"/> G. BUILDING MATERIALS	<input type="radio"/> K. LIQUIDS/GASES	<input type="radio"/> Q. COAL/COKE	<input type="radio"/> W. REFRIGERATED FOOD	<input type="radio"/> CC. WATER WELL
<input type="radio"/> C. METAL; SHEETS; COILS; ROLLS	<input type="radio"/> H. MOBILE HOMES	<input type="radio"/> L. INTERMODAL CONT.	<input type="radio"/> R. MEAT	<input type="radio"/> X. BEVERAGES	<input type="radio"/> DD. OTHER <u>GRAIN, FEED, HAY</u>
<input type="radio"/> D. MOTOR VEHICLES	<input type="radio"/> I. MACHINERY, LARGE OBJECTS	<input type="radio"/> M. PASSENGERS	<input type="radio"/> S. GARBAGE, REFUSE, TRASH	<input type="radio"/> Y. PAPER PRODUCTS	
<input type="radio"/> E. DRIVE AWAY/TOWAWAY	<input type="radio"/> N. OIL FIELD EQUIPMENT	<input type="radio"/> T. U.S. MAIL	<input type="radio"/> Z. UTILITY		
	<input type="radio"/> O. LIVESTOCK	<input type="radio"/> U. CHEMICALS	<input type="radio"/> AA. FARM SUPPLIES		

25. HAZARDOUS MATERIALS CARRIED OR SHIPPED (Circle All that Apply) C-CARRIED S-SHIPPED B(BULK) - IN CARGO TANKS NB(NON-BULK) - IN PACKAGE

C	S	A. DIV 1.1	B NB	C	S	K. DIV 2.2A (Ammonia)	B NB	C	S	U. DIV 4.2	B NB	C	S	EE. HRCQ	B NB
C	S	B. DIV 1.2	B NB	C	S	L. DIV 2.3A	B NB	C	S	V. DIV 4.3	B NB	C	S	FF. CLASS 8	B NB
C	S	C. DIV 1.3	B NB	C	S	M. DIV 2.3B	B NB	C	S	W. DIV 5.1	B NB	C	S	GG. CLASS 8A	B NB
C	S	D. DIV 1.4	B NB	C	S	N. DIV 2.3C	B NB	C	S	X. DIV 5.2	B NB	C	S	HH. CLASS 8B	B NB
C	S	E. DIV 1.5	B NB	C	S	O. DIV 2.3D	B NB	C	S	Y. DIV 6.2	B NB	C	S	II. CLASS 9	B NB
C	S	F. DIV 1.6	B NB	C	S	P. Class 3	B NB	C	S	Z. DIV 6.1A	B NB	C	S	JJ. ELEVATED TEMP MAT.	B NB
C	S	G. DIV 2.1	B NB	C	S	Q. Class 3A	B NB	C	S	AA. DIV 6.1B	B NB	C	S	KK. INFECTIOUS WASTE	B NB
C	S	H. DIV 2.1 LPG	B NB	C	S	R. Class 3B	B NB	C	S	BB. DIV 6.1 Poison	B NB	C	S	LL. MARINE POLLUTANTS	B NB
C	S	I. DIV 2.1 (Methane)	B NB	C	S	S. COM LIQ	B NB	C	S	CC. DIV 6.1 SOLID	B NB	C	S	MM. HAZARDOUS SUB(RQ)	B NB
C	S	J. DIV 2.2	B NB	C	S	T. DIV 4.1	B NB	C	S	DD. CLASS 7	B NB	C	S	NN. HAZARDOUS WASTE	B NB
												C	S	OO. ORM	B NB

26. NUMBER OF VEHICLES THAT CAN BE OPERATED IN THE U.S.

	Straight Trucks	Truck Tractors	Trailers	Hazmat Cargo Tank Trucks	Hazmat Cargo Tank Trailers	Motor Coach	School Bus		Mini-bus	Van		Limousine			
							Number of vehicles carrying number of passengers (including the driver) below								
							1-8	9-15	16+	16+	1-8	9-15	1-8	9-15	16+
OWNED			2	2											
TERM LEASED															
TRIP LEASED															

27. DRIVER INFORMATION

Within 100-Mile Radius	INTERSTATE	INTRASTATE	TOTAL DRIVERS	TOTAL CDL DRIVERS
Beyond 100-Mile Radius	0	0	2	2

28. IS YOUR U.S. DOT NUMBER REGISTRATION CURRENTLY REVOKED BY THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION? Yes _____ No X
 If Yes, enter your U.S. DOT Number. _____

29. PLEASE ENTER NAME(S) OF SOLE PROPRIETOR(S), OFFICERS OR PARTNERS AND TITLES (e.g. PRESIDENT, TREASURER, GENERAL PARTNER, LIMITED PARTNER)

1. DANIEL A RAMON GASTULO, OWNER 2. _____
 (Please print Name) (Please print Name)

30. CERTIFICATION STATEMENT (to be completed by an authorized official)

I, DANIEL A RAMON GASTULO, certify that I am familiar with the Federal Motor Carrier Safety Regulations and/or Federal Hazardous Materials Regulations.
 (Please print Name)
 Under penalties of perjury, I declare that the information entered on this report is, to the best of my knowledge and belief, true, correct, and complete.
 Signature DANIEL A RAMON GASTULO Date 10/02/2023 Title OWNER
 (Please print)

ATTACHMENT “B”

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

In the Matter of the Investigation of **C & D Transport**)
LLC of Garden City, Kansas, Regarding the)
Violation of the Motor Carrier Safety Statutes, Rules)
and Regulations and the Commission’s Authority to) Docket No. 25-TRAM-172-PEN
Impose Penalties, Sanctions and/or the Revocation of)
Motor Carrier Authority.)

AFFIDAVIT OF ANN MURPHY

I, Ann Murphy, affiant, of lawful age, first being duly sworn upon oath, depose and say the following:

1. I have personal knowledge of the facts stated herein and they are all true and correct.
2. I am an Administrative Assistant employed by the Kansas Corporation Commission’s Legal Division.
3. On December 27, 2024, the Penalty Order with the certified mail receipt was returned undelivered. I deposited the Penalty Order in U.S. first class mail addressed to the same address. The Penalty Order has not been returned to me as undeliverable.
4. I have read the above information under penalty of perjury, that the information and records are true, correct and complete to the best of my knowledge.

FURTHER, Affiant sayeth not.

Ann Murphy

Ann Murphy

2/27/25

Date

ATTACHMENT “C”

January 14, 2025

C & D Transport LLC
809 Jenny Ave
Garden City, KS 67846

Re: Docket No. 25-TRAM-172-PEN

In the Matter of the Investigation of **C & D Transport LLC of Garden City, Kansas**, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority.

On 11/21/2024, a Penalty Order was issued against C & D Transport LLC for violations of motor carrier safety statutes, rules and regulations. The order required C & D Transport LLC, within thirty (30) days of service of the Penalty Order, to do the following: (1) pay a civil penalty of \$11,650; (2) submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff (Staff), documenting the violation(s) described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future; and (3) have a representative of C&D Transport attend a Commission-sponsored safety seminar and to provide the undersigned Litigation Counsel with written proof of attendance.

To date, C & D Transport LLC has not completed all three of these actions.

This civil penalty has not been paid, nor has evidence been provided to the Commission to avoid sending this matter to a collection agency and/or submission to the Kansas state setoff program for the garnishment of any tax refund that might be due you. Please remit payment of \$11,650 through your personal account in 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. **Payment must be made within the next 10 days.**

Staff has not received and/or approved of a CAP submitted by C & D Transport LLC. **Prepare a CAP and submit it to Transportation Division Deputy Director Jared Smith at Jared.L.Smith@ks.gov within the next 10 days.** If you have questions you can contact him at (785) 271-3284.

Staff does not have confirmation or proof of your attendance at a Commission-sponsored safety seminar. If you have attended a safety seminar, please submit proof of attendance to Ahsan.Latif@ks.gov. If you have not yet attended a safety seminar, **sign up to attend one within the next 10 days.** A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

This letter further serves as notice that operation of a commercial motor vehicle in violation of a Commission Penalty Order may subject your company to additional civil penalties and sanctions, including the issuance and enforcement of out-of-service orders and possible impoundments.

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

Thank you for your prompt attention to this matter. If you have any questions or concerns, please feel free to call me at 785-271-3118.

Respectfully,

/s/ Ahsan A. Latif

Ahsan A. Latif
Litigation Counsel
ahsan.latif@ks.gov

CERTIFICATE OF SERVICE

25-TRAM-172-PEN

I, the undersigned, certify that a true copy of the attached Motion has been served to the following by means of first class mail and electronic service on February 27, 2025.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
ahsan.latif@ks.gov

Daniel Ramon-Gastulo, OWNER
C & D Transport LLC
809 Jenny Ave
Garden City, KS 67846
danielramon712@yahoo.com

/S/ Kiley McManaman
Kiley McManaman
