

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

In the Matter of the Investigation of **Matthias** )  
**W. Schroeder of Hunter, Kansas**, Regarding )  
the Violation of the Motor Carrier Safety )  
Statutes, Rules and Regulations and the ) Docket No. 19-TRAM-051-PEN  
Commission's Authority to Impose Penalties, )  
Sanctions and/or the Revocation of Motor )  
Carrier Authority.

**STAFF'S RESPONSE TO RESPONDENT'S ANSWER/RESPONSE TO STAFF'S  
MOTION TO DISMISS RESPONDENT'S REQUEST FOR HEARING, MOTION FOR  
DISCOVERY, SECOND MOTION FOR DISCOVERY**

Litigation

Counsel for Staff of the State Corporation Commission of the State of Kansas (Litigation Counsel, Staff and Commission, respectively) presents Staff's Response to various filings of Matthias W. Schroeder (Respondent). In response to Respondent's filings, Litigation Counsel states as follows:

**I. Background**

1. On June 21, 2018, Commission Staff (Staff) Special Investigator (SI) Gregory Askren conducted a compliance review of the operations of Respondent. As a result of this investigation, the special investigator identified seven violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations.

2. On August 9, 2018, the Commission issued Respondent a Penalty Order that assessed a civil penalty of \$4,100 for the seven violations identified during the compliance review. The Penalty Order was sent via certified mail to Mr. Schroeder's address of record on August 10, 2018. The Penalty Order was returned to sender marked "Unclaimed" on August 28,

2018. The Penalty Order was then resent via regular U.S. mail on September 17, 2018 and was not returned.

3. On October 29, 2018, a collection letter was sent to Mr. Schroeder at his address of record. The collection letter reminded Mr. Schroeder of his obligation to pay the overdue civil penalty and stated that “payment must be made within the next ten days.” The collection letter was not returned.

4. On November 13, 2018, Staff filed its Motion to Suspend Intrastate Motor Carrier Operations, requesting the Commission issue an order suspending Mr. Schroeder’s intrastate motor carrier operations for failure to comply with the requirements of the Commission’s Penalty Order of August 9, 2018.

5. On November 20, 2018, the Commission issued its Order Suspending Intrastate Motor Carrier Operations. The Order immediately suspended “all intrastate commercial motor carrier operations” of Matthias W. Schroeder and was sent via certified mail to Mr. Schroeder’s address of record.

6. On December 10, 2018, Staff received Mr. Schroeder’s Request for Hearing dated December 8, 2018.

7. On January 25, 2019, Staff filed its Motion to Dismiss Respondent’s Request for Hearing for failure to state a claim.

8. On March 7, 2019, the Commission issued its Order on Respondent’s Request for Hearing, which found “because the Respondent’s request for hearing on the Penalty Order was filed untimely, the Commission finds his request should be dismissed.”

9. On June 3, 2019, Respondent's Answer/Response to: Staff's Motion to Dismiss Respondent Request for Hearing, Respondent's Motion for Discovery and Respondent's Second Motion for Discovery were filed in this docket.

## **II. Respondent's Filings are Untimely and Should be Dismissed**

10. K.S.A. 77-529(a)(1) states that "any party, within 15 days after service of a final order, may file a petition for reconsideration with the agency head, stating the specific grounds upon which relief is requested."

11. Pursuant to K.S.A. 77-531(b), "service by mail is complete upon mailing." The Certificate of Service on the Commission's March 7, 2019 Order on Respondent's Request for Hearing states that it was mailed on March 7, 2019. The last day to timely file a Petition for Reconsideration on the Commission's March 7, 2019 Order was March 22, 2019.

12. Respondent filed its latest motions some eighty-eight days after the Commission's final Order was issued and seventy-three days past the deadline for filing a Petition for Reconsideration. Additionally, none of the three filings Respondent has untimely filed could be construed as a Petition for Reconsideration that is responsive to the Commission's March 7, 2019 Order.

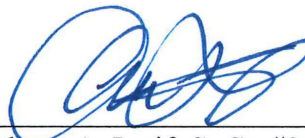
13. Respondent's Answer/Response to: Staff's Motion to Dismiss Respondent's Request for Hearing is filed out of time and should be denied and disregarded. Additionally, Respondent's Motion for Discovery and Second Motion for Discovery are also out of time and should be denied. Staff provided all responsive discovery to Respondent as attachments to Staff's Confidential Direct Testimony of Gregory Askren and Staff's Direct Testimony of Gary Davenport, both filed on January 7, 2019.

14. Respondent is out of time to file responsive pleadings to Staff's Motion to Dismiss, and has already received all responsive discovery and is nevertheless out of time to file such motions. Additionally, Respondent has failed to properly contest the Commission's Order on Respondent's Request for Hearing which denied Respondent's initial request.

15. Staff requests that the Commission deny Respondent's recent filings and/or motions and close this docket.

WHEREFORE, for the reasons set forth above, Litigation Counsel for Staff respectfully requests the Commission deny Respondent's recent filings and/or motions and close this docket.

Respectfully submitted,



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For Commission Staff

STATE OF KANSAS )  
 ) ss.  
COUNTY OF Shawnee )

**VERIFICATION**

Ahsan A. Latif, being of lawful age, being duly sworn upon his oath deposes and says 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 *Staff's Response to Respondent* and attests that the statements contained therein are true and correct to the best of his knowledge, information and belief.



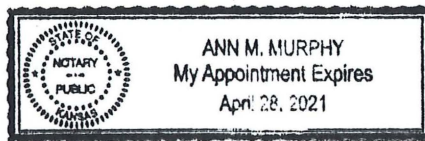
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Ahsan A. Latif, S. Ct. # 24709  
Litigation Counsel  
The State Corporation Commission  
of the State of Kansas

Subscribed and sworn to before me this 17<sup>th</sup> day of July, 2019.



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Notary Public

My Appointment Expires: 4-28-21



**CERTIFICATE OF SERVICE**

19-TRAM-051-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff's Response to Respondent's Answer/Response to Staff's Motion to Dismiss Respondent's Request for Hearing, Motion for Discovery, Second Motion for Discovery was served via electronic service this 17th day of July, 2019, to the following:

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