

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

Before Commissioners:                    Mark Sievers, Chairman  
   Thomas E. Wright  
   Shari Feist Albrecht

In the Matter of the Investigation of Mark Buss,            )  
d/b/a Auto Transport of Newton, Kansas,                    )  
Pursuant to the Kansas Highway Patrol Issuance            )  
of a Notice of Violation for Violation(s) of the            )  
Kansas Motor Carrier Safety Statutes, Rules and            )            Docket No. 13-GIMM-702-KHP  
Regulations and the Commission's Authority to            )  
Impose Penalties, Sanctions and/or the                    )  
Revocation of Motor Carrier Authority.                    )

**ORDER DISMISSING REQUEST FOR HEARING**

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

1.        On April 2, 2013, the Kansas Highway Patrol (KHP) issued a Notice of Violation against Mark Buss, d/b/a Auto Transport (Respondent), for alleged violations found during a March 27, 2013, routine motor carrier stop and inspection conducted by the KHP.
2.        On May 20, 2013, the Respondent submitted a request for hearing on this matter, which opened Docket No. 13-GIMM-702-KHP.
3.        On June 26, 2013, the Commission issued an Order Setting Procedural Schedule, which directed the Respondent to file a list of contested issues prior to the prehearing conference and evidentiary hearing in this matter by July 15, 2013. Respondent failed to file the list of contested issues by the date set forth in the procedural schedule.
4.        On July 17, 2013, Commission Staff (Staff) filed a Motion to Dismiss Request for Hearing, arguing the Respondent's request for a hearing should be dismissed for failure to file

the list of contested issues by July 15, 2013, as ordered by the Commission. Staff argued the Respondent has failed to set forth the specific grounds upon which relief is being sought. Staff therefore requested the Commission find the Respondent's request for a hearing should be dismissed, the above-captioned docket be removed from the Commission's August 8, 2013, transportation docket, the status of this docket be changed to "closed," and that all Commission notices of violations, subsequent invoices and enforcement actions, if any, remain in effect.

5. The Respondent did not reply to Staff's Motion to Dismiss Request for Hearing within the 10 days allowed under Commission rules and regulations. Furthermore, counsel for the Respondent notified Staff the day before the scheduled prehearing conference in this matter that he would not be attending, and would be filing a motion for continuance. No motion for continuance has been filed in this docket as of August 2, 2013.

6. Respondent has failed to adhere to the Commission's directions as set out in the procedural order, and has generally failed to participate in this case in any way subsequent to filing the request for a hearing. The Commission therefore finds and concludes that Staff's Motion to Dismiss Request for Hearing should be granted. The Respondent's request for a hearing is dismissed, the above-captioned docket shall be removed from the Commission's August 8, 2013, transportation docket, the status of this docket shall be changed to "closed," and all Commission notices of violations, subsequent invoices and enforcement actions related to the Respondent, if any, remain in effect.

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

A. The Commission grants Staff's Motion to Dismiss Request for Hearing.


B. Parties have 15 days, plus three days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration.<sup>1</sup>

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order, or orders, as it may deem necessary and proper.

**BY THE COMMISSION IT IS SO ORDERED.**

Sievers, Chairman; Wright, Commissioner; Albrecht, Commissioner

Dated:           AUG 06 2013          

  
ORDER MAILED AUG 07 2013  
Kim Christiansen  
Executive Director

JV

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<sup>1</sup> K.S.A. 66-118b; K.S.A. 2012 Supp. 77-529(a)(1).

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
M. LEVI MORRIS, ATTORNEY AT LAW CORNERSTONE LAW, LLC 725 N MAIN NEWTON, KS 67114		
AMBER SMITH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
JAY VAN BLARICUM, ADVISORY COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED **AUG 07 2013**

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.