

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Investigation of)
Kelley & Son Trucking Inc of Ottawa,)
Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and)
Regulations and the Commission's) Docket No. 24-TRAM-314-PEN
Authority to Impose Penalties, Sanctions)
and/or the Revocation of Motor Carrier)
Authority.)

ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS

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 duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION AND BACKGROUND

1. Pursuant to K.S.A. 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 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. Pursuant to K.S.A. 66-1,142b the Commission is granted the authority to prescribe reasonable rules and regulations for the assessment of administrative civil penalties and sanctions for violations of any statute, commission orders or rules and regulations adopted by the commission.

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. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-3f) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

II. FINDINGS OF FACTS

4. On February 8, 2024, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations due to the carrier's failure to pay.

5. Staff advised that Kelley & Son Trucking Inc of Ottawa, Kansas (Carrier) is a motor carrier as defined in K.A.R. 82-4-3f, which operates commercial motor vehicle(s) in intrastate commerce and operates under USDOT Number 2948006.

6. On November 2, 2023, Carrier was issued a penalty assessment of \$250 for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted on August 3, 2023, by Kansas Corporation Commission Special Investigator(s) Jared Smith. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

7. The Penalty Order was mailed to Carrier via certified mail, return receipt requested, on November 2, 2023. A Proof of Service of the Penalty Order was filed in this docket on February 7, 2024, indicating the Carrier was served with the Penalty Order on November 6, 2023.

8. Carrier was mailed a collection letter dated December 13, 2023, notifying it of its unpaid fine and lack of compliance with the above-referenced Penalty Order, giving the Carrier ten (10) days from the date of the collection letter to pay the penalty amount. The Carrier did not respond to the collection letter.

9. As of February 7, 2024, Commission records indicate Carrier has not complied with requirements of the Penalty Order in that Carrier had thirty (30) days from the date of service to pay the fine of \$250, and Transportation Division records indicate the fine is unpaid.

10. Staff recommends the Commission place Kelley & Son Trucking Inc out-of-service due to its failure to comply with the Commission's Penalty Order.

III. CONCLUSIONS OF LAW

11. The Commission finds it has jurisdiction over Carrier pursuant to K.S.A. 66-1,108b as it is a motor carrier as defined in K.A.R. 82-4-3f.

12. The Commission finds Carrier received sufficient notice of the Commission's Penalty Order and the requirement to pay the fine within 30 days from the date of service of the Penalty Order.

13. The Commission finds Carrier's failure to comply with the requirements of the Penalty Order is intentional and therefore this Commission finds the Carrier should be suspended from all intrastate motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as the carrier takes the necessary steps to become compliant.

THE COMMISSION THEREFORE ORDERS THAT:

A. Kelley & Son Trucking Inc of Ottawa, Kansas is immediately suspended from all intrastate commercial motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as Carrier pays the penalty amount of \$250 and brings its motor carrier operation into compliance with motor carrier safety statutes, rules and regulations. This Suspension of Intrastate Motor Carrier Operations Order may also attach and apply to the operations of successor entities, including any motor carrier entity

or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

B. **Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Executive Director, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order.** Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of Carrier's right to a hearing, and this Order will become a Final Order.

C. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 66-1,142b(e) and amendments thereto.

D. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 02/13/2024



Lynn M. Retz
Executive Director

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CERTIFICATE OF SERVICE

24-TRAM-314-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 02/13/2024.

Peggy Davis, OWNER
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/S/ KCC Docket Room
KCC Docket Room