

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of the Investigation of **4 Seasons**)
AG, LLC of Colby, Kansas, Regarding the)
Violation of the Motor Carrier Safety Statutes,)
Rules and Regulations and the Commission's) Docket No. 17-TRAM-407-PEN
Authority to Impose Penalties, Sanctions)
and/or the Revocation of Motor Carrier)
Authority.)

ORDER AMENDING PENALTY ORDER

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

BACKGROUND

1. On April 4, 2017, this Commission issued a Penalty Order to 4 Seasons AG, LLC (hereinafter 4 Seasons AG), assessing it a civil penalty of \$500, in accordance with the FY 2017 Uniform Penalty Assessment Matrix. The penalty(s) was for two (2) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

2. 4 Seasons AG was advised in the Penalty Order that since it was a New Entrant motor carrier and being reviewed for the first time, it was eligible for a reduced penalty of fifty-percent (50%) less than what is normally assessed motor carriers in accordance with the FY 2017

Uniform Penalty Assessment Matrix, but it must comply with the terms and obligations described in the Notice of Penalty Assessment and the Reduced Penalty Agreement.

3. On April 19, 2017, Staff filed a Motion to Amend Penalty Order, recommending the Commission assess 4 Seasons AG with a fifty-percent (50%) reduced penalty of \$250, and to set out specific terms and obligations for 4 Seasons AG's compliance.

4. Staff states that on April 19, 2017, 4 Seasons AG submitted the signed Reduced Penalty Agreement. The carrier submitted a Corrective Action Plan which has been approved by Transportation Staff. A copy of the Reduced Penalty Agreement was attached to Staff's Motion.

FINDINGS OF FACT

5. The Penalty Order issued on April 4, 2017, assessed 4 Seasons AG a civil penalty(s) of \$500 for two (2) violation(s) of the motor carrier safety statutes, rules and regulations.

6. Staff recommended in its Motion that due to 4 Seasons AG's agreement to comply with the terms and obligations for a fifty-percent (50%) reduction in the penalty assessed, an Amended Penalty Order be issued by the Commission assessing it a reduced penalty of \$250, and setting out the terms and obligations as stated in its motion.

7. K.S.A. 66-1,142c authorizes the Commission to determine the amount of civil penalty and states in pertinent part:

"Any civil penalty may be compromised by the state corporation commission. In determining the amount of the penalty or the amount agreed in compromise, the appropriateness of the penalty to the size of the business, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, shall be considered."
(emphasis added)

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The civil penalty of \$500 assessed to 4 Seasons AG, LLC in the Penalty Order dated April 4, 2017, is hereby amended to \$250, which is fifty-percent (50%) less than what is normally assessed to motor carriers pursuant to the FY 2017 Uniform Penalty Assessment Matrix.

(B) This Amended Penalty Order was mailed on April 25, 2017, via certified mail, return receipt requested, Certified Receipt No. 70161970000105740938. Service is complete upon the date the carrier signs the Domestic Return Receipt. Payment of the reduced amount is due within thirty (30) days from the date of service of this Amended Penalty Order. A check shall be made payable to the Kansas Corporation Commission and submitted for payment. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payment shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*

(C) 4 Seasons AG is ordered to, within thirty (30) days from the date of the Penalty Order dated April 4, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and submit proof of attendance to the Transportation Division.

(D) 4 Seasons AG must submit to a follow-up compliance review within eighteen (18) months from the date of the Penalty Order dated April 4, 2017. Transportation Staff will contact 4 Seasons AG to schedule the review.

(E) If 4 Seasons AG fails to pay the reduced fine of \$250 and/or fails to comply with the terms and obligations ordered above, the Commission may order 4 Seasons AG additional

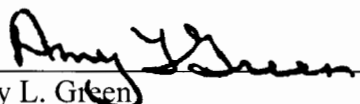
sanctions, including enforcement of an out-of-service order, revoking its authority or any further sanctions as the Commission deems necessary.

(F) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: APR 25 2017


Amy L. Green
Secretary to the Commission

AAL

Order Mailed Date

APR 26 2017

CERTIFICATE OF SERVICE

17-TRAM-407-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on APR 26 2017.

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/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

APR 26 2017