

**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 Suspension of Operating)
Authority of **Top Notch Drywall LLC** of)
Olathe, Kansas, for Failure to Comply with New)
Entrant Safety Requirements as Required by the) Docket No. 25-TRAM-349-OOS
Motor Carrier Safety Statutes, Rules and)
Regulations.)

**ORDER ADOPTING THE FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION'S ORDER AND SUSPENDING OPERATING AUTHORITY**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the records and being duly advised in the premises, the Commission makes the following findings:

I. Legal Standards

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 49 C.F.R. 390.5 and 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. 66-1,129(a)(7), no public motor carrier of property, household goods or passengers or private motor carrier of property shall operate, or allow the operation of, any commercial motor vehicle on any public highway in this state without following rules and regulations consistent with the federal motor carrier safety assistance program.

II. Analysis

4. On February 28, 2025, the Federal Motor Carrier Safety Administration (FMCSA) forwarded a notice (Federal Notice) of violation(s) of the federal motor carrier safety regulations to Top Notch Drywall LLC (Carrier), wherein Carrier was given 10 days to comply with the regulations or its New Entrant Registration would be revoked.¹ A copy of the Notice is attached hereto as Attachment “A” and is hereby incorporated by reference. Carrier failed to act upon the FMCSA’s Federal Notice.

5. On March 11, 2025, the FMCSA issued Carrier an Order to Revoke “New Entrant” Registration and Cease All Interstate Transportation (Federal Order), attached hereto as Attachment “B” and is hereby incorporated by reference, due to Carrier’s failure to agree to the FMCSA’s safety audit.

6. Pursuant to the Federal Order, Carrier’s operations were placed out of service immediately and Carrier must immediately cease all interstate motor carrier operations in the United States.²

7. Carrier is a motor carrier as defined in 49 C.F.R. 390.5 and as adopted in K.A.R. 82-4-3f, which operates commercial motor vehicle(s) in interstate commerce in a manner that requires Commission authority.

¹ See Attachment A.

² See Attachment B.

8. Carrier is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 4219928.

9. The Commission finds Carrier's failure to comply with requirements of a new entrant audit is a violation of K.S.A. 66-1,129(a)(7).

10. Therefore, the Commission finds that the Federal Order be adopted and that the Carrier's intrastate motor carrier operations be suspended, 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. This includes submitting to the Commission verifiable evidence of the correction of the violation(s) noted in Federal Order including, but not limited to, proof of federal reinstatement and attendance of a Commission-sponsored safety seminar within thirty (30) days from the date of this Order. A schedule of dates and locations for the safety seminar can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The proof of attendance at the safety seminar should be timely submitted to Litigation Counsel within five (5) days of completion.

THEREFORE, THE COMMISSION ORDERS:

A. The Federal Motor Carrier Safety Administration's Order to Revoke "New Entrant" Registration and Cease All Interstate Transportation issued on March 11, 2025 is hereby accepted and adopted.

B. Top Notch Drywall LLC of Olathe, Kansas is to be suspended and ordered to immediately cease all intrastate Kansas 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 presents to Staff verifiable evidence, including, but not limited to, proof of federal reinstatement documenting the correction of the safety concerns identified in the FMCSA's

March 11, 2025 Order to Revoke “New Entrant” Registration and Cease All Interstate Transportation. This 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 suspend operating authority.

C. Top Notch Drywall LLC is hereby ordered to attend a Commission-sponsored safety seminar within thirty (30) days from the date of this Order and timely provide Litigation Counsel with written proof of attendance within five (5) days of completion.

D. **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.

E. 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: 03/18/2025

A handwritten signature in black ink, appearing to read 'Abigail D. Emery', written over a horizontal line.

Abigail D. Emery
Acting Secretary to the Commission

AAL/km

ATTACHMENT “A”



U.S. Department of
Transportation
1200 New Jersey Ave. S.E.
Washington, D.C. 20590

**Federal Motor Carrier
Safety Administration**

February 28, 2025

In reply refer to:
USDOT Number: **4219928**

**TOP NOTCH DRYWALL LLC
2710 W WABASH ST
OLATHE, KS 66061-4565**

Action Required: Out of Service/Revocation Warning Letter.

On April 4, 2024 the Federal Motor Carrier Safety Administration (FMCSA) informed you that your application seeking registration to operate in interstate commerce within the United States was approved. That letter also informed you that the FMCSA would continue to evaluate your safety management practices through a Safety Audit, and that under Part 385 of Title 49 of the Code of Federal Regulations (49 CFR 385.337), failure to permit a Safety Audit to be performed on your operation could result in the revocation of your USDOT New Entrant registration and or the penalty provisions in 49 U.S.C. 521(b)(2) (A).

A safety auditor has tried on three separate occasions to contact you to schedule a safety audit, but was unable to reach you. In light of this, you are considered to have refused to submit to a safety audit under 49 CFR 385.337.

Therefore, in accordance with 49 CFR 385.337(b), you are hereby advised that your USDOT New Entrant registration will be revoked and your operation placed out of service unless you **agree in writing**, within 10 days from the service date of this notice, to permit a safety auditor to conduct the safety audit required under Part 385. Your correspondence should be directed to the contact information listed below. At that time please provide a valid telephone number for your company.

If your USDOT New Entrant registration is revoked, you may reapply no sooner than 30 days after the date of the revocation. Should that occur, you would need to initiate the USDOT New Entrant registration process again by completing an updated Motor Carrier Identification Report (MCS-150).

If you have any questions, please contact your local State MCSAP office at the address below:

KANSAS HIGHWAY PATROL
LT. ANDREW SCHIPPERS – ANDREW.SCHIPPERS@KS.GOV
700 SW JACKSON STE 704
TOPEKA, KS 66603
Telephone No.: 785-296-7818

Sincerely,

David J. Yessen
Chief, Compliance Division

ATTACHMENT “B”



U.S. Department of
Transportation
1200 New Jersey Ave. S.E.
Washington, D.C. 20590

**Federal Motor Carrier
Safety Administration**

March 11, 2025

In reply refer to:
USDOT Number: **4219928**

**TOP NOTCH DRYWALL LLC
2710 W WABASH ST
OLATHE, KS 66061-4565**

**ORDER TO REVOKE "NEW ENTRANT" REGISTRATION AND CEASE
ALL INTERSTATE TRANSPORTATION U.S. DOT Number: 4219928**

This Order is issued pursuant to 49 CFR 385.337(b). In a letter dated February 28, 2025 TOP NOTCH DRYWALL LLC was notified that its New Entrant Registration would be revoked unless it agreed in writing within 10 days of February 28, 2025 to permit a Safety Audit to be performed. Because TOP NOTCH DRYWALL LLC has failed to agree to the safety audit its New Entrant Registration is hereby revoked and TOP NOTCH DRYWALL LLC's operations are placed out of service effective immediately. TOP NOTCH DRYWALL LLC must immediately cease all Interstate motor carrier operations in the United States.

Failure to comply with this order may subject the carrier to a penalty in accordance with 49 USC 521 (b)(2)(a) and the minimum/maximum penalty schedule in 49 CFR Part 386 Appendix A and B.

Under section 385.329, TOP NOTCH DRYWALL LLC may reapply for new entrant registration no earlier than 30 days from the date of this Order. In accordance with 49 CFR 385.329, in order to reapply TOP NOTCH DRYWALL LLC must submit an updated MCS-150 (Motor Carrier Identification Report), submit to a safety audit, and restart the 18-month new entrant monitoring period. Reapplication may be made via the FMCSA web site (<http://safer.fmcsa.dot.gov>) or by submitting a MCS-150 form. The form may be obtained by calling FMCSA support services at 1-800-832-5660 or via the FMCSA web site.

Sincerely,

David J. Yessen
Chief, Compliance Division

CERTIFICATE OF SERVICE

25-TRAM-349-OOS

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 03/18/2025.

Nestor Gonzalez, OWNER
Top Notch Drywall LLC
2710 W Wabash St
Olathe, KS 66061
marthaoamtazins@gmail.com

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

/S/ KCC Docket Room
KCC Docket Room