

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

In the Matter of the Investigation of **Charles Ethan Ball**)
d/b/a Cow Chow Express of Garden City, Kansas,)
Regarding the Violation of the Motor Carrier Safety) Docket No. 20-TRAM-173-PEN
Statutes, Rules and Regulations and the Commission's)
Authority to Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority)

STAFF'S MOTION TO DISMISS REQUEST FOR HEARING

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) presents the above-captioned matter to the Commission for dismissal of the request for hearing, with prejudice, filed by Charles Ethan Ball d/b/a Cow Chow Express of Garden City, Kansas (Respondent). In support of its Motion, Litigation Counsel states as follows:

1. On October 17, 2019, the Commission issued a Penalty Order in this docket assessing a \$2,750 civil penalty against Respondent for violations found during an October 1-2, 2019, compliance review. The Penalty Order was set certified mail on October 18, 2019.
2. On November 10, 2019, the Penalty Order was returned as "Unclaimed."
3. On November 13, 2019, the Penalty Order was sent by regular mail to Respondent's address on file with the Commission. Pursuant to K.S.A. 77-531(b), "service by mail is complete upon mailing."
4. On December 19, 2019, Respondent submitted its request for hearing, which was filed in this docket on that same date.
5. Respondent's Request for Hearing stated the attachments to the Commission's Penalty Order related to a different company. Respondent stated that "movant is unable to answer

the allegations contained in the Penalty Order because they are not evidenced by any documents or investigation relating to him or his business.”¹

6. On January 9, 2020, the Commission issued an Amended Penalty Order to Respondent attaching the correct documents corresponding to the violations alleged to have been committed by Respondent. In its Amended Penalty Order the Commission stated it “enters this Amended Penalty Order to correct the oversight and provides the documents to Cow Chow Express.”²

7. Staff, therefore, moves to dismiss Respondent’s request for a hearing based on the fact that Respondent’s sole ground for requesting a hearing has been resolved by the Commission’s issuance of an Amended Penalty Order providing the correct attachments which correspond to the violations alleged against Respondent.

WHEREFORE, for the reasons set forth above, Staff respectfully requests the Commission find that Respondent’s request for hearing be dismissed.

Respectfully submitted,



Ahsan A. Latif, S. Ct. #24709
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604
(785) 271-3118 (Telephone)
(785) 271-3124 (Facsimile)
Email: a.latif@kcc.ks.gov

For Commission Staff

¹ Request for Hearing, ¶5, Dec. 19, 2019.

² Amended Penalty Order, ¶5, Jan. 9, 2019.

VERIFICATION

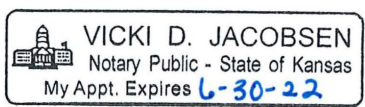
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

Ahsan A. Latif, of lawful age, being duly sworn upon his oath deposes and states 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 Motion to Dismiss Request for Hearing*, and attests that the statements therein are true and correct to the best of his knowledge, information and belief.



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

SUBSCRIBED AND SWORN to before me this 30th day of January, 2020





Notary Public

My Appointment Expires: June 30, 2022

CERTIFICATE OF SERVICE

20-TRAM-173-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff's Motion to Dismiss Request for Hearing was placed in the United States mail, postage prepaid, or hand-delivered this ~~23rd~~ ^{30th} day of January, 2020, to the following:

CHARLES ETHAN BALL, OWNER
CHARLES ETHAN BALL
D/B/A COW CHOW EXPRESS
3980 W PARALLEL RD
GARDEN CITY, KS 67846-8953

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
a.latif@kcc.ks.gov

J. SCOTT KOKSAL, PARTNER
LINDER, MARQUEZ & KOKSAL
505 NORTH 6TH
GARDEN CITY, KS 67846
scott@lmandk.com



Vicki Jacobsen