2018-06-04 16:21:13 Kansas Corporation Commission /s/ Lynn M. Retz

THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

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In the Matter of the Application of Joe Brake dba Brake Inc. ("Operator") for an Operator's License Renewal. Docket No.: 18-CONS-3262-CMSC

CONSERVATION DIVISION

License No.: 31074

MOTION FOR DEFAULT ORDER

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively), moves the Commission for a default order to be issued against Operator. In support of its motion, Staff states as follows:

1. On January 18, 2018, the Commission issued an *Order Denying Application for License* to Operator.

2. On February 1, 2018, Operator filed a timely appeal.

3. On April 26, 2018, the Commission issued an *Order Designating Prehearing Officer and Setting Prehearing Conference*, setting a May 10, 2018, prehearing conference.

4. Counsel for Staff appeared at the prehearing conference on May 10, 2018, but Operator failed to appear. Staff verbally motioned for a default order to be issued, but upon the prehearing officer's request agreed to file a written motion for a default order.

5. Pursuant to K.S.A. 77-520(a), "[i]f a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds." Staff believes Operator was properly noticed and afforded an opportunity to attend and participate in the May 10, 2018, prehearing conference, but failed to do so. Therefore, Staff requests that a default order be issued against Operator.

WHEREFORE, for the reasons set forth above, Staff respectfully requests the

Commission issue a default order against Operator for failure to appear and participate, and for

any further relief as the Commission deems just and proper.

Respectfully submitted,

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Jonathan R. Myers, #25975 Litigation Counsel, Kansas Corporation Commission 266 N. Main, Suite 220, Wichita, Kansas 67202 Phone: 316-337-6200; Fax: 316-337-6211

VERIFICATION

STATE OF KANSAS)) ss. COUNTY OF SEDGWICK)

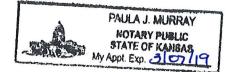
Jonathan R. Myers, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Motion*, and attests that the statements therein are true to the best of his knowledge, information and belief.

Jonathan R. Myers, S. Ct. #25975 Litigation Counsel State Corporation Commission of the State of Kansas

SUBSCRIBED AND SWORN to before me this 4 day of 3, 2018.

Muerzi Notary Public

3071 My Appointment Expires:



CERTIFICATE OF SERVICE

18-CONS-3262-CMSC

I, the undersigned, certify that the true copy of the attached Motion has been served to the following parties by means of first class mail and electronic service on June 4, 2018.

JOE BRAKE D/B/A JOE BRAKE INC. RT 1 BOX 84 33527 2ND ROAD LATHAM, KS 67072 MICHAEL DUENES, ASSISTANT GENERAL COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 Fax: 785-271-3354 m.duenes@kcc.ks.gov

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> /S/ Paula J. Murray Paula J. Murray