

**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 Royce)	
Varela d/b/a Varela Trucking of Garden)	
City, Kansas. Regarding the Violation(s) of)	
the Motor Carrier Safety Statutes. Rules and)	Docket No. 24-TRAM-587-PEN
Regulations and the Commission's)	
Authority to Impose Penalties, Sanctions)	
and/or the Revocation of Motor Carrier)	
Authority.)	

**ORDER AFFIRMING SUSPENSION OF INTRASTATE MOTOR CARRIER
OPERATIONS**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files, the Commission finds and concludes:

1. On February 29, 2024, the Commission issued an Order Suspending Intrastate Motor Carrier Operations of Royce Varela d/b/a Varela Trucking of Garden City, Kansas (Varela), after finding several major violations, including: (1) lack of interstate insurance, (2) operating interstate with an intrastate only USDOT number, (3) operating intrastate without Commission for-hire authority, (4) failing to provide maintenance files to investigators, (5) providing fraudulent documents to investigators, (6) failing to provide records of duty status, supporting documents for the loads hauled, or annual inspections for the vehicles operated to investigators, (7) failing to conduct a random test on a driver, using unqualified drivers, and (8)

failing to properly repair and operating commercial motor vehicles that have been placed out-of-service.¹

2. The Commission found Varela's noncompliance with motor carrier safety rules and regulations poses a potential immediate threat to the safety and welfare of the citizens of Kansas.² Since the Commission found Varela's noncompliance is intentional, it immediately suspended all intrastate motor carrier operations of Varela.³

3. Pursuant to K.S.A. 77-542, Varela had 15 days from the Order Suspending Intrastate Motor Carrier Operations to make a written request for a hearing. On March 7, 2024, Royce Varela emailed Commission Transportation Staff's counsel requesting a hearing.

4. Pursuant to K.S.A. 66-1,129a(a), which requires the Commission to hold a hearing within 10 days of receipt of a written request from a motor carrier, the Commission set the hearing on its Order Suspending Intrastate Motor Carrier Operations for Thursday, March 14, 2024, via Zoom. Royce Varela appeared pro se.

5. Mr. Varela challenged the suspension of Varela's Intrastate Motor Carrier Operations, claiming the investigators were biased against him and cited him because of his brother's history of citations. Mr. Varela testified on behalf of Valera and was subject to cross-examination. Erica Pargas, one of the Commission's Special Investigators, testified on behalf of Transportation Staff (Staff). Mr. Varela declined to cross-examine Ms. Pargas.

6. Mr. Varela accused Staff of lying when it cited him for lack of interstate insurance, and operating interstate with an intrastate only USDOT number. He claims the insurance was under his mother's name. He also claims he was not operating interstate, because

¹ Order Suspending Intrastate Motor Carrier Operations, Feb. 29, 2024, ¶ 7.

² *Id.*, ¶ 9.

³ *Id.*

the vehicle in question never left the State of Kansas. Mr. Varela contends, while the truck was purchased in New York, it is inoperable, and has not been driven since it was acquired.

7. On March 15, 2024, Commission Staff filed redacted copies of their exhibits in the record. On March 15, 2024, Mr. Varela submitted scanned copies of his documents to the Commission's counsel. On March 18, 2024, Commission's counsel filed redacted copies of Mr. Varela's documents into the record.

8. Mr. Varela's documents show a Commercial Auto Insurance policy that covers Andrea Varela, Royce Varela, and Varela Trucking.⁴ The policy lists 9 covered vehicles.⁵ However, Varela was cited for not having insurance on a 2012 EADU trailer, which is not among the 9 insured vehicles.⁶ Thus, the documentation supplied by Mr. Varela shows that Varela lacked insurance on the vehicles he was operating.

9. On page 13 of his scanned documents, Mr. Varela acknowledges that he was operating intrastate without Commission for-hire authority.⁷ Based on his admission, the Commission finds Varela was operating intrastate without Commission for-hire authority.

10. Mr. Varela disputes the investigators' allegation that he failed to provide investigators with his maintenance files. However, he does not provide any documentation to support his claim that he provided all relevant maintenance files to investigators.

11. Mr. Varela disputes investigators' allegation that he failed to provide them with records of duty status, supporting documents for the loads hauled, or annual inspections for the vehicles operated. However, Staff Exhibit 1 is a signed statement from Mr. Varela stating, "I, Royce Varela did not retain copies of bills of lading, scale tickets, or invoices for any loads

⁴ Notice of Filing of Operator's Post-Hearing Exhibits (Public) (Operator's Exh.), Mar. 18, 2024, p. 3.

⁵ *Id.*, pp. 6-7.

⁶ Notice of Filing of Staff's Public Hearing Exhibits (Staff Exh.), Mar. 15, 2024, Exh. 4, pp. 1-2.

⁷ Operator Exh., p. 13.

hauled by Royce Varela d/b/a Varela Trucking In the last six (6) months.”⁸ Mr. Varela does not allege the signed statement is false or was made under duress. Thus, the Commission finds Varela failed to provide investigators records of duty status, supporting documents for the loads hauled, or annual inspections for the vehicles operated.

12. Mr. Varela challenges the allegations that he failed to conduct a random test on a driver, resulting in the driver being deemed a prohibited driver in the Federal Drug and Alcohol Clearinghouse. Mr. Varela claims the testing site was closed when he tried to go in for testing. But he does not deny that he failed to get timely tested. The only evidence in the record is that Mr. Varela was not timely tested, and thus was deemed a prohibited driver.

13. Lastly, Mr. Varela argues he has made proper repairs to the commercial motor vehicle that had been placed out-of-service. Mr. Varela offers documentation in the form of invoices that he had a truck repaired.⁹ But Mr. Varela ignores that both the truck and a trailer were placed out-of-service.¹⁰ Mr. Varela only submitted documents showing he made repairs to the 1996 Peterbuilt truck, listed as Unit 1 on the Driver Vehicle Examination Report.¹¹ The EADU trailer, listed as Unit 2 on the Driver Vehicle Examination Report was placed out-of-service for defective brakes and unsecured cargo.¹² Mr. Varela offered no evidence of repairs made to the trailer. Thus, the Commission concludes that Varela was operating a trailer that had been placed out-of-service without proper repairs.

14. Suspending a carrier is a serious undertaking. While the evidence accompanying Staff’s Motion to Suspend Intrastate Motor Carrier Authority is lacking, sufficient evidence of

⁸ Staff Exh. 1.

⁹ Operator’s Exh., pp. 8-10.

¹⁰ Staff Exh. 4.

¹¹ *Id.*, p. 1.

¹² *Id.*

multiple violations on Varela's part was introduced at the hearing. Accordingly, the Commission finds there is sufficient evidence to suspend Varela's motor carrier operations.

15. At the hearing, Mr. Varela expressed an interest in paying any applicable fines, so he could resume operations as a commercial motor carrier. The Commission encourages Varela to work with both the Federal Motor Carrier Safety Administration (FMCSA) and Staff to provide a detailed corrective action plan, ensure any penalties are paid promptly. However, the Commission notes paying the fines does not automatically make Varela eligible to operate as a commercial motor carrier.

THEREFORE, THE COMMISSION ORDERS:

- A. The Order Suspending Varela's Intrastate Motor Carrier Operations is affirmed.
- B. Any party may file a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹³

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 03/26/2024



Lynn M. Retz
Executive Director

BGF

¹³ K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

24-TRAM-587-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 03/24/2024.

BRIAN G. FEDOTIN, GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
b.fedotin@kcc.ks.gov

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

CARLY MASENTHIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
c.masenthin@kcc.ks.gov

ROYCE VARELA, OWNER
ROYCE VARELA
D/B/A VARELA TRUCKING
804 4TH STREET
GARDEN CITY, KS 67846
rvtrucking_13@icloud.com

/S/ KCC Docket Room

KCC Docket Room