

**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)
Brandon J Schwartz d/b/a Brandon)
Schwartz Trucking of Great Bend,)
Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 25-TRAM-095-PEN
Regulations and the Commission's)
Authority to Impose Penalties, Sanctions)
and/or the Revocation of Motor Carrier)
Authority.)

ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS

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

I. JURISDICTION

1. Pursuant to K.S.A. 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 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. Pursuant to K.S.A. 66-1,142b the Commission is granted the authority to prescribe reasonable rules and regulations for the assessment of administrative civil penalties and sanctions for violations of any statute, commission orders or rules and regulations adopted by the commission.

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), 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.

4. Pursuant to K.S.A. 66-1,105, “[e]very order and decision of the commission on matters covered by this act shall become operative and effective within 30 days after service, and the motor carrier shall carry the provisions of the order into effect, unless the order is enjoined or set aside by a court of proper jurisdiction.”

II. ANALYSIS

5. On October 25, 2024, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations due to the carrier’s failure to comply with a Commission-issued Penalty Order.

6. Staff advised that Brandon J Schwartz d/b/a Brandon Schwartz Trucking of Great Bend, Kansas (Carrier) is a motor carrier as defined in 49 C.F.R. 390.5, as adopted in K.A.R. 82-4-3f, which operates commercial motor vehicle(s) in intrastate commerce and operates under USDOT Number 2562506.

7. On July 25, 2024, Carrier was issued a penalty assessment of \$1,200 for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted on July 17, 2024, by a Staff Special Investigator on July 17, 2024. In the Penalty Order, the Carrier was ordered to pay the \$1,200 civil penalty within thirty

(30) days of service, to attend a Commission-sponsored safety seminar within ninety (90) days of the date of the Penalty Order, and to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of the Penalty Order. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

8. The Penalty Order was mailed to Carrier via certified mail, return receipt requested, on July 25, 2024. A Proof of Service of the Penalty Order was filed in this docket on October 10, 2024, indicating the Carrier was served with the Penalty Order on August 1, 2024. The Carrier had 30 days from the date served to pay the civil penalty of \$1,200, 90 days from the date of the Penalty Order to attend a Commission-sponsored safety seminar and 30 days from the date of the Penalty Order to submit a CAP.

9. Carrier was mailed a collection letter dated August 27, 2024, notifying it of its unpaid fine and lack of compliance with the above-referenced Penalty Order, giving the Carrier ten (10) days from the date of the collection letter to pay the penalty amount. The Carrier did not respond to the collection letter.

10. As of October 7, 2024, Commission records indicate Carrier has not complied with requirements of the Penalty Order in that Carrier had thirty (30) days from the date of service to pay the fine of \$1,200, 90 days from the date of the Penalty Order to attend a Commission-sponsored safety seminar and 30 days from the date of the Penalty Order to submit a CAP. Transportation Division records indicate the fine is unpaid, the Carrier has not attended a Commission-sponsored safety seminar and no CAP has been received.

11. Staff recommended the Commission place Brandon J Schwartz d/b/a Brandon Schwartz Trucking out-of-service due to its failure to comply with the Commission's Penalty Order.

III. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Carrier pursuant to K.S.A. 66-1,108b as it is a motor carrier as defined in 49 C.F.R. Part 390.5, as adopted by K.A.R. 82-4-3f.

13. The Commission finds Carrier received sufficient notice of the Commission's Penalty Order and the requirement to comply with the Commission's Penalty Order.

14. The Commission finds that Carrier has violated K.S.A. 66-1,105 and 66-1,142b by failing to comply with the Commission's Penalty Order.

15. The Commission finds Carrier intentionally failed to act upon the collection letter and comply with the requirements of the Penalty Order. The Commission concludes that suspending Carrier's intrastate motor carrier authority operations is appropriate and the suspension shall remain in place until such time as Carrier comes into compliance with the applicable motor carrier statutes, rules and regulations, and cooperates with Transportation Staff comply with the Commission's Penalty Order

THE COMMISSION THEREFORE ORDERS THAT:

A. Brandon J Schwartz d/b/a Brandon Schwartz Trucking of Great Bend, Kansas is suspended and ordered to immediately cease all intrastate 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 pays the penalty amount of \$1,200, attends a Commission-sponsored safety seminar, submits a written, comprehensive corrective action plan that is approved by Staff and brings its motor carrier operation into compliance with motor carrier safety statutes, rules and regulations. This Suspension of Intrastate Motor Carrier Operations 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 suspending operating authority.

B. 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.

C. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.¹ For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation.²

D. Failure to comply with the provisions of this Order will 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.

¹ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

² K.S.A. 66-1,142b(e) and amendments thereto.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 10/31/2024



Lynn M. Retz
Executive Director

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CERTIFICATE OF SERVICE

25-TRAM-095-PEN

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 10/31/2024.

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