

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

In the Matter of the Investigation of **Danny G.**)
Lambeth, d/b/a Truck Wholesale of)
Wellsville, Kansas, Pursuant to the Kansas)
Highway Patrol Issuance of a Notice of) Docket No. 17-GIMM-408-KHP
Violation(s) and Invoice for the Violations of)
the Kansas Motor Carrier Safety Statutes, Rules)
and Regulations.)

**DANNY LAMBETH'S OBJECTION TO STAFF'S MOTION TO CONVERT REQUEST FOR
HEARING TO EMERGENCY OUT OF SERVICE PROCEEDING AND REQUEST FOR
DISMISSAL**

1) It has been well established and acknowledged by the Kansas Corporation Commission that I am not, and never have been, a public motor carrier of property in the State of Kansas. I am a licensed used truck dealer and I am exempt from Kansas Corporation Commission regulations pursuant to K.S.A 66-1,109(q).

2) I am not guilty of the alleged violations described on Kansas Highway Patrol report #KSHP02550894 and invoice #H000566219.

3) In response to the first and only Notice of Violation I received, dated January 24, 2017, I timely filed a formal challenge with the Kansas Highway Patrol on February 22, 2017. Included with the Notice was invoice #H000566219, also dated January 24, 2017, with a due date of February 23, 2017. The Notice and invoice were filed on March 15, 2017 in 17-GIMM-408-KHP and described as a "second notice" according to a document search on KCC's website. Nothing on the Notice dated January 24, 2017 indicates that it was a second notice. My challenge letter dated February 22, 2017 was filed on March 29, 2017 in 17-GIMM-408-KHP. The driver/vehicle examination report #KSHP02550894 was filed on the same day.

4) I received a letter from the KHP, dated February 27, 2017, in which I was informed that my challenge was denied but I was advised I had the right to an administrative hearing with the Kansas Corporation Commission and that my request for hearing must be received by the Kansas Highway Patrol

within fifteen days from the date of the letter. The KHP letter dated February 27, 2017 was postmarked March 7, 2017, nine [emphasis added] days after the date of the letter. With mailing time that left me with less than five days in which to submit a request for an administrative hearing. Even so, my request was received, timely, by the KHP on March 10, 2017. My request for an administrative hearing is missing [emphasis added] from documents filed in 17-GIMM-408-KHP.

5) A letter from Ahsan A. Latif of the KCC, dated September 13, 2017, stated that my Request for Hearing had been received and the KCC was compiling documents, photos, and video related to the inspection that was conducted on January 3, 2017. The letter stated that the Commission will issue an order setting hearing “in the near future”. A hearing has never been set. This letter is not referred to in the Staff’s Motion to Convert Request for Hearing to Emergency Out of Service Proceeding and is missing [emphasis added] from documents filed in 17-GIMM-408-KHP. It appears that this letter has been intentionally omitted, or perhaps deleted, from the file.

6) In the Staff’s Motion to Convert Request for Hearing to Emergency Out of Service Proceeding, paragraphs 24 and 25 state that KHP issued a Notice of Violation on January 5, 2017 and that I initiated a formal challenge 18 days out of time. I did not receive a notice dated January 5, 2017. Curiously, on March 29, 2017, two weeks after the filing of the January 24, 2017 letter, a copy of a January 5, 2017 letter was filed. This letter is somewhat different than the January 24th letter and it is written on a 2016 KCC letterhead, listing Commissioner Albrecht as Chair. Also filed in 17-GIMM-408-KHP on that date was a copy of invoice #H000566219 dated January 5, 2017 with a due date of February 4, 2017. I find it odd that dates and due dates would be changed on an invoice. It appears that these documents were back-dated then added to the file in an attempt to make it appear that I had not timely filed my formal challenge with the KHP.

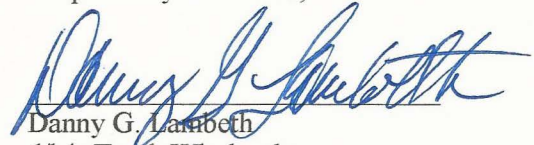
7) In accordance with the provisions of the Kansas Administrative Procedures Act, I’m entitled to an administrative hearing with the KCC regarding the alleged violations found during the January 3, 2017 routine motor carrier stop and inspection conducted by the KHP. As of this date, I have been deprived of my right to prove my innocence in an administrative hearing.

8) I received a copy of Staff's Motion to Convert Request for Hearing to Emergency Out of Service Proceeding on February 2, 2018, almost one year [emphasis added] from the date that I requested a hearing.

9) Over one year [emphasis added] after the January 3, 2017 inspection, the KCC states that my continued operation "poses a potential immediate threat to the safety and welfare of the public of the state of Kansas".

WHEREFORE, for the reasons set forth herein, I request that the Commission deny Staff's Motion to Convert Request for Hearing to Emergency Out of Service Proceeding against me, Danny G. Lambeth d/b/a Truck Wholesale of Wellsville, Kansas ("Respondent") and dismiss all assessed fines on invoice ##H000566219 for alleged violations.

Respectfully submitted,



Danny G. Lambeth
d/b/a Truck Wholesale
P.O. Box 501
Wellsville, KS 66092
785/550-9073

CERTIFICATE OF SERVICE

17-GIMM-408-KHP

I, the undersigned, certify that a true and correct copy of the above and foregoing Danny Lambeth's Objections to Staff's Motion to Convert Request For Hearing to Emergency Out of Service Proceeding and Request for Dismissal was served by electronic service and a copy placed in the United States mail, postage prepaid, this 6th day of February, 2018, to the following:

KANSAS CORPORATION COMMISSION
COMMISSION'S DOCKET ROOM
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027


Danny G. Lambeth