

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**

**Deborah Platt Majoras, Chairman  
Orson Swindle  
Thomas B. Leary  
Pamela Jones Harbour  
Jon Leibowitz**

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<b>In the Matter of</b>	)	
	)	
<b>KENTUCKY HOUSEHOLD</b>	)	<b>Docket No. 9309</b>
<b>GOODS CARRIERS</b>	)	
<b>ASSOCIATION, INC.,</b>	)	
	)	
<b>a corporation.</b>	)	
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**FINAL ORDER**

This matter having been heard by the Commission upon the appeal of Respondent, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the Initial Decision with certain modifications:

**IT IS ORDERED THAT** the Initial Decision of the administrative law judge be, and it hereby is, adopted as the Findings of Fact and Conclusions of Law of the Commission, to the extent not inconsistent with the findings of fact and conclusions of law contained in the accompanying Opinion.

Other findings of fact and conclusions of law of the Commission are contained in the accompanying Opinion.

**IT IS FURTHER ORDERED THAT** the following Order to cease and desist be, and it hereby is, entered:

## **ORDER**

### **I.**

**IT IS ORDERED THAT**, for the purposes of this Order, the following definitions shall apply:

- A. “Respondent” or “KHGCA” means the Kentucky Household Goods Carriers Association, Inc., its officers, executive board, committees, parents, representatives, agents, employees, successors, and assigns;
- B. “Carrier” means a common carrier of property by motor vehicle;
- C. “Intrastate transportation” means the pickup or receipt, transportation, and delivery of property hauled between points within the Commonwealth of Kentucky for compensation by a carrier authorized by the Kentucky Transportation Cabinet’s Division of Motor Carriers to engage therein;
- D. “Member” means any carrier or other person that pays dues or belongs to KHGCA or to any successor corporation;
- E. “Tariff” means the publication stating the rates of a carrier for the transportation of property between points within the Commonwealth of Kentucky, including updates, revisions, and/or amendments, including general rules and regulations;
- F. “Rate” means a charge, payment, or price fixed according to a ratio, scale, or standard for direct or indirect transportation service;
- G. "Collective rates" means any rate or charge established under any contract, agreement, understanding, plan, program, combination, or conspiracy between two or more competing carriers, or between any two or more carriers and Respondent; and
- H. “Person” means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.

### **II.**

**IT IS FURTHER ORDERED THAT** Respondent, its successors and assigns, and its officers, agents, representatives, directors, and employees, directly or through any corporation, subsidiary, division, or other device, shall immediately cease and desist from entering into, and shall, within 120 days after this Order becomes final, cease and desist from adhering to or maintaining, directly or indirectly, any contract, agreement, understanding, plan, program, combination, or conspiracy to fix, stabilize, raise, maintain, or otherwise

interfere or tamper with the rates charged by two or more carriers for the intrastate transportation of property or related services, goods, or equipment, including, but not limited to:

- A. Knowingly preparing, developing, disseminating, or filing a proposed or existing tariff that contains collective rates for the intrastate transportation of property or other related services, goods, or equipment;
- B. Providing information to any carrier about rate changes considered or made by any other carrier employing the publishing services of Respondent prior to the time at which such rate change becomes a matter of public record;
- C. Inviting, coordinating, or providing a forum (including publication of an informational bulletin) for any discussion or agreement between or among competing carriers concerning rates charged or proposed to be charged by carriers for the intrastate transportation of property or related services, goods, or equipment;
- D. Suggesting, urging, encouraging, persuading, or in any way influencing members to charge, file, or adhere to any existing or proposed tariff provision which affects rates, or otherwise to charge or refrain from charging any particular price for any services rendered or goods or equipment provided;
- E. Maintaining any rate or tariff committee or other entity to consider, pass upon, or discuss intrastate rates or rate proposals; and
- F. Preparing, developing, disseminating, or filing a proposed or existing tariff containing automatic changes to rates charged by two or more carriers.

### **III.**

**IT IS FURTHER ORDERED THAT** Respondent shall, within 120 days after this Order becomes final:

- A. Take such action pursuant to the laws of the Commonwealth of Kentucky as may be necessary to effectuate the cancellation and withdrawal of all tariffs and any supplements thereto on file with the Kentucky Transportation Cabinet's Division of Motor Carriers that establish rates for transportation of property or related services, goods, or equipment by common carriers in the Commonwealth of Kentucky;
- B. Terminate all previously executed powers of attorney and rate and tariff service agreements, between it and any carrier utilizing its services, authorizing the publication and/or filing of intrastate collective rates within the Commonwealth of Kentucky;

- C. Take action pursuant to the laws of the Commonwealth of Kentucky to cancel those provisions of its articles of incorporation, by-laws, and procedures and every other rule, opinion, resolution, contract, or statement of policy that has the purpose or effect of permitting, announcing, stating, explaining, or agreeing to any business practice enjoined by the terms of this Order; and
- D. Take action pursuant to the laws of the Commonwealth of Kentucky to amend its by-laws to require members of KHGCA to observe the provisions of this Order as a condition of membership in KHGCA.

#### IV.

**IT IS FURTHER ORDERED THAT** Respondent shall mail or deliver a copy of this Order (A) to each current member of Respondent engaged in the transportation of household goods within 75 days after this Order becomes final, and (B) to each new member engaged in the transportation of household goods within ten (10) days after each such member's acceptance by Respondent.

#### V.

**IT IS FURTHER ORDERED THAT** Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in Respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation which may affect compliance obligations arising out of this Order.

#### VI.

**IT IS FURTHER ORDERED THAT** Respondent shall file a written report within 180 days after this Order becomes final, and annually on the anniversary date of the original report, and at such other times as the Commission may require by written notice to Respondent, setting forth in detail the manner and form in which Respondent has complied with this Order.

**VII.**

**IT IS FURTHER ORDERED THAT** this Order shall terminate twenty (20) years after the date on which this Order becomes final.

By the Commission.

Donald S. Clark  
Secretary

SEAL

ISSUED: June 21, 2005