

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

In the Matter of

**KENTUCKY HOUSEHOLD
GOODS CARRIERS
ASSOCIATION, INC.,**

a corporation.

Docket No. 9309

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....3

I. INTRODUCTION.....4

II. LEGAL STANDARD FOR SUMMARY DECISION.....4

III. FACTUAL BACKGROUND.....5

IV. LEGAL DISCUSSION.....6

V. CONCLUSION.....8

TABLE OF AUTHORITIES

California Retail Dealers Association v. Midcal Aluminum, Inc., 445 U.S. 97
(1980).....6,7.

F.T.C. v. Ticor Title Insurance Co., 504 U.S. 621 (1992)6,7

U.S. v. Southern Motor Carriers Rate Conference, 467 F. Supp. 471 (N.D. Ga.,
(1979)).....7

I. INTRODUCTION

The headings and subject matter of this Reply Memorandum follow the headings and respond to claims and arguments raised in corresponding sections of “Complaint Counsel’s Memorandum in Opposition to Respondent’s Motion for Summary Decision” (hereinafter referred to as “CCM”).

Complaint Counsel’s claim that “[the] movers in the Kentucky Association agree upon what price will be charged to consumers” [CCM; p.1] finds no basis in the record in this proceeding. The rates charged by members of the Kentucky Association are established by the Kentucky Transportation Cabinet based on proposals submitted by the Kentucky Association.

Complaint Counsel’s suggestion that state officials “passively observe and rubber stamp the rates agreed upon by the movers” [CCM; page 1] is tantamount

Counsel has failed to come forward with evidence which suggests that the defense is not available in this proceeding.

III. FACTUAL BACKGROUND

Respondent's motion papers conclusively establish that KTC has designated William Debord, a regulatory professional with thirty (30) years of experience in matters pertaining to the regulation of intrastate household goods carriers in Kentucky, as a person who reviews "the substance of the tariffs" [CCM; page 3]; collects business data, protects the public interest in reviewing rates, and actively supervises the Kentucky Association in its tariff filing

activities. Complaint Counsel's assertions to the contrary are unsupported.

A. Kentucky Household Goods Carriers Association

The Kentucky Association does not set rates, collective or otherwise; only KTC can do this.

There is no evidence that the Kentucky Association has applied "pressure" on any member with regard to rates; Complaint Counsel developed no testimony or evidence to support this absurd allegation.

B. Kentucky Statutes Regarding Household Goods Carriers

A simple reading of the Kentucky statutes and regulations described in Respondent's motion papers and Complaint Counsel's Opposition discloses that the statutes themselves contain the standards required to be met by rates. KTC

has the responsibility to comply with those standards; KTC has designated a representative to do so. This is consistent with the requirements of F.T.C. v.

Dealers Association v. Midcal Aluminum, Inc., 445 U.S. 97 (1980).

C. State Supervision

Ticor and Midcal do not require written decisions.

Ticor and Midcal do not require written decisions.

Neither Ticor nor Midcal addresses the commitment of resources by the State. [CCM; p.8]

The record demonstrates that KTC receives data which it believes is sufficient to achieve its regulatory purpose. [CCM; p. 10]

IV. LEGAL DISCUSSION

Complaint Counsel's Memorandum contains repeated references to the

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

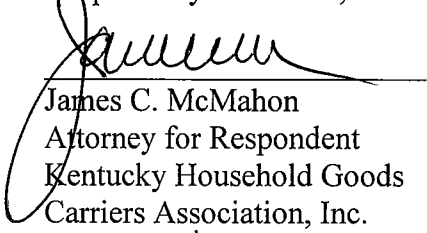
[REDACTED]

V. CONCLUSION

For all the foregoing reasons, Respondent respectfully requests that its motion for summary decision dismissing the complaint be in all respects granted, and that the Administrative Law Judge grant such other and further relief as shall be appropriate.

Dated: New York, NY
January 23, 2004

Respectfully submitted,



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CERTIFICATE OF SERVICE

**Reply Memorandum in Support of Respondent's Motion for Summary Decision to
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