

**ORIGINAL**



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

COMMISSIONERS: Timothy J. Muris, Chairman  
Mozelle W. Thompson  
Orson Swindle  
Thomas B. Leary  
Pamela Jones Harbour

**In the Matter of** )  
 )  
 )  
 **KENTUCKY HOUSEHOLD** )  
 **GOODS CARRIERS** )  
 **ASSOCIATION, INC.,** )  
 )  
 **a corporation.** )

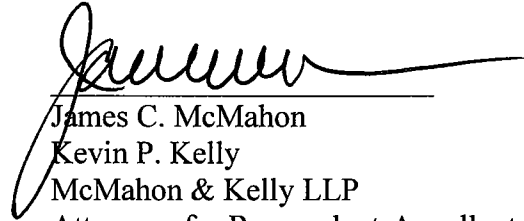
**Docket No. 9309**

**NOTICE OF APPEAL**

Pursuant to Section 3.52(a) of the Commission's Rules of Practice, Counsel for Respondent Kentucky Household Goods Carriers Association, Inc. hereby gives notice that it will appeal against Complaint Counsel from (1) the Initial Decision & Order entered in this proceeding on June 21, 2004, in its entirety, with the exception of that part of the Initial Decision which determined that the activities challenged in the Complaint satisfied the first prong of the so-called *Midcal* test, and (2) an evidentiary ruling at trial which precluded a statement of the Kentucky Secretary of Transportation from being received in evidence.

Dated: New York, NY  
June 28, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James C. McMahon', with a long horizontal flourish extending to the right. The signature is written over a horizontal line.

James C. McMahon

Kevin P. Kelly

McMahon & Kelly LLP

Attorneys for Respondent-Appellant

Kentucky Household Goods

Carriers Association, Inc.

60 East 42<sup>nd</sup> Street; Ste. 1540

New York, NY 10165-1544

212.986.4444

Fax.212.986.6905

**CERTIFICATE OF SERVICE**

This is to certify that on June 28, 2004 I caused a copy of Respondent's Notice of Appeal to be served upon the following persons by fax, U.S. Mail, or Hand-Carried:

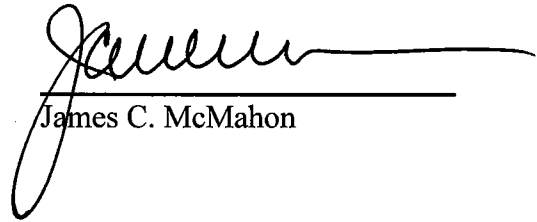
The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580  
*Fax & Mail*

J. Todd Shipp, Esq.  
Deputy General Counsel  
Kentucky Transportation Cabinet  
Office of Legal Services  
200 Mero Street  
Frankfort, KY 40622  
*Fax & Mail*

Dana Abrahamsen, Esq.  
Bureau of Competition  
Room 5229  
Federal Trade Commission  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20580  
*Fax & Mail*

Hon. Richard Dagen  
Assistant Director  
Room 6223  
Federal Trade Commission  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20580  
*Fax & Mail*

James Dean Liebman, Esquire  
Liebman and Liebman  
403 West Main Street  
Frankfort, Kentucky 40601  
*Fax & Mail*

A handwritten signature in black ink, appearing to read 'James C. McMahon', with a long horizontal flourish extending to the right. The signature is positioned above a solid horizontal line.

---

James C. McMahon