

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

Before Commissioners: Mark Sievers, Chairman
Thomas E. Wright

In the Matter of the Investigation of **John C. Tipton,**)
of Meriden, Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and Regulations)
and the Commission's Authority to Impose Penalties,) Docket No. 12-TRAM-656-PEN
Sanctions and/or the Revocation of Motor Carrier)
Authority.)

ORDER APPROVING STIPULATED SETTLEMENT AGREEMENT

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

I. BACKGROUND

1. Commission Staff conducted a Safety Compliance Review on John C. Tipton (Respondent) on February 21, 2012, wherein Special Investigator Verna Jackson discovered two (2) violations of the motor carrier safety statutes, rules and regulations.
2. On March 19, 2012, the Commission issued a Penalty Order assessing Respondent a \$600 civil penalty.
3. On May 1, 2012, the Commission issued an order setting this matter for hearing on June 14, 2012, at 1:30 p.m.
4. On or about May 21, 2012, John C. Tipton, Owner of John C. Tipton and Amber Smith, Litigation Counsel for Staff, discussed the possibility of settlement. As a result of the informal discussions, Staff and Respondent were able to reach mutually agreeable terms in anticipated settlement of the issues. It was agreed that Staff would subsequently reduce the terms to writing and forward the draft to Respondent for approval and signature.

5. The parties signed a Stipulated Settlement Agreement and submitted a Joint Motion for its approval to the Commission on June 14, 2012. In the Stipulated Settlement Agreement, Respondent stipulates to the violations as set out in the Commission's Penalty Order. Respondent no longer operates a commercial motor vehicle point-to-point in Kansas and is out of business. Respondent understands and agrees that he is not to drive a commercial motor vehicle in Kansas, and if found doing so, the fine set out in the penalty order of \$600 will be reinstated and Respondent will become obligated to pay the amount in full. Respondent further understands that he must notify the Commission's Director of Transportation, in writing, prior to engaging in future commercial motor vehicle operations. The parties agree that prior to Respondent resuming commercial operations under any name or in any manner, they will meet to resolve the safety concerns as documented in the March 19, 2012, Penalty Order. In signing the Stipulated Settlement Agreement, the parties agree that the Agreement constitutes a reasonable and fair resolution of the outstanding issues raised in this proceeding.

II. FINDINGS AND CONCLUSIONS

6. The Commission finds that the terms and provisions of the Stipulated Settlement Agreement and the payment agreement of the civil penalty contained therein constitute a reasonable and appropriate final resolution of this matter.

7. The Commission further finds that the hearing originally scheduled for June 14, 2012, is hereby cancelled.

8. The Commission concludes that settlements are favored by the law. *Bright v. LSI Corp.*, 254 Kan. 853, 869 P.2d 686 (1994). A settlement of issues, all or part, with or without unanimous agreement, will be entertained by the Commission.

9. The Commission further concludes that pursuant to K.S.A. 2011 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2011 Supp. 66-1,108b, 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. The Commission may fine, sanction, suspend, cancel or revoke a carrier's authority in accordance with K.S.A. 2011 Supp. 66-1,129a, 66-1,130 and 66-1,142b. Further, the Commission has the authority to investigate a party in accordance with K.A.R. 82-1-237.

10. The Commission has reviewed the Stipulated Settlement Agreement attached to the Joint Motion for Approval of Stipulated Settlement Agreement of the parties and concludes that the terms and provisions therein are an appropriate and reasonable disposition of this matter. The Commission therefore adopts and incorporates by reference the terms of the Agreement.

THE COMMISSION THEREFORE ORDERS THAT:

A. The Joint Motion to Approve the Stipulated Settlement Agreement entered into by John C. Tipton and Staff is hereby granted. The terms of the Stipulated Settlement Agreement are approved and are hereby incorporated by reference.


B. The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was received in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2011 Supp. 77-529(a)(1).

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chmn; Wright, Com.

Dated: JUN 21 2012


ORDER MAILED JUN 21 2012
Patrice Petersen-Klein
Executive Director

AS

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
John C. Tipton, OWNER 9491 X Rd Meriden, KS 66512-9454		
AMBER SMITH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED JUN 21 2012

The Docket Room hereby certified that on this _____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.