

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

Before Commissioners: Mark Sievers, Chairman  
Thomas E. Wright  
Shari Feist Albrecht

In the Matter of the Investigation of Adam Lukens, )  
d/b/a Lukens Lawn & Landscape, of Wichita, )  
Kansas, Regarding the Violation of the Motor Carrier )  
Safety Statutes, Rules and Regulations and the ) Docket No. 13-TRAM-108-PEN  
Commission's Authority to Impose Penalties, )  
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 Adam Lukens, d/b/a Lukens Lawn & Landscape (Respondent) on July 3, 2012, wherein Special Investigator Gary Goeller discovered two (2) violations of the motor carrier safety statutes, rules and regulations.

2. On August 8, 2012, the Commission issued a Penalty Order assessing Respondent a \$600 civil penalty.

3. On or about September 26, 2012, Adam Lukens, Owner of Adam Lukens, d/b/a Lukens Lawn & Landscape 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.

4. The parties signed a Stipulated Settlement Agreement and submitted a Joint Motion for its approval to the Commission on October 30, 2012. In the Stipulated Settlement Agreement, Respondent stipulates to the violations as set out in the Commission's Penalty Order. Respondent further agrees to pay, and Staff agrees to accept eight (8) monthly payments. The first payment due in the amount of \$75 on September 28, 2012, and the remaining seven (7) payments in the amount of \$75 each, due and payable on the 29th day of each month beginning October, 2012. Respondent understands and agrees that failure to make one (1) payment will result in the entire remaining balance becoming due in full at that time, and in the immediate suspension of its authority without further notice. Respondent further agrees to submit to one follow-up safety compliance review within twelve months of the date of this Order. Respondent agrees to attend a Commission-sponsored safety seminar within six months of the date of this 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**

5. 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.

6. 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.

7. 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.

8. 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 Adam Lukens, d/b/a Lukens Lawn & Landscape 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.; Feist Albrecht, Com.

Dated: NOV 06 2012

  
ORDER MAILED NOV 06 2012

Patrice Petersen-Klein  
Executive Director

AS

IN RE: DOCKET NO. **13-TRAM-108-PEN**

DATE **NOV 06 2012**

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ADAM LUKENS, OWNER D/B/A Lukens Lawn & Landscape PO BOX 771324 WICHITA, KS 67277		
AMBER SMITH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED **NOV 06 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.