

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Failure of Ace Energy,) Docket No: 18-CONS-3339-CPEN
LLC (“Operator”) to comply with K.A.R.)
82-3-120(f).) CONSERVATION DIVISION
)
) License No: 34998

ORDER APPROVING SETTLEMENT AGREEMENT

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

1. On March 13, 2018, the Commission issued a Penalty Order to Ace Energy, LLC (Operator) which stated the Operator committed a violation of K.A.R. 82-3-120(f) because the Operator falsified their well inventory by changing the well status of twenty-five abandoned wells to producing wells.¹ The Commission further ordered the Operator to pay a \$5,000 penalty for such violation.²
2. On March 28, 2018, the Operator filed a letter requesting a hearing.
3. On June 22, 2018, Conservation Division Staff (Staff) filed a Motion to Approve Settlement Agreement which attached the Settlement Agreement (SA) duly executed by both parties.³ The SA indicates the Operator will pay the \$5,000 penalty in monthly installments of \$500 commencing September 30, 2018 and concluding June 30, 2019.⁴

¹ Penalty Order at 3 (Mar. 13, 2018).

² *Id.*

³ Motion to Approve Settlement Agreement (Jun. 22, 2018).

⁴ SA at 2.

4. Kansas law favors compromising and settling disputes when the agreement is entered intelligently, and in good faith.⁵ The Commission finds that the SA provides a fair and efficient resolution of the matter.

5. Pursuant to the SA, the Operator is hereby on notice that failure to comply with the SA may result in Operator's license being suspended and other such penalty as may be warranted pursuant to the conditions of the SA.

THEREFORE, THE COMMISSION ORDERS:

A. The Motion to Approve Settlement Agreement is granted and the Settlement Agreement is approved.


B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁶

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 07/10/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 07/11/2018

DLK/sc

⁵ *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

⁶ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

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In the matter of the failure of Ace Energy, LLC.) Docket No.: 18-CONS-3339-CPEN
("Operator") to comply with K.A.R. 82-3-120(f).)
) CONSERVATION DIVISION
)
) License No.: 34998

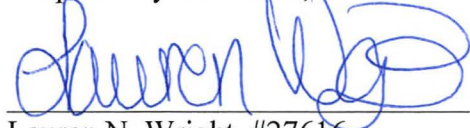
MOTION TO APPROVE SETTLEMENT AGREEMENT

Commission Staff (Staff) of the State Corporation Commission of the State of Kansas (Commission) files this Motion to Approve Settlement Agreement. In support of its Motion, Staff states as follows:

1. On March 13, 2018, the Commission issued a Penalty Order against Operator for one violation of K.A.R. 82-3-120(f) finding that the Operator falsified their well inventory by changing the well status of twenty-five abandoned wells to producing wells. The Penalty Order assessed a \$5,000 penalty.
2. Staff and Operator have reached a settlement in this matter. Staff believes the attached Settlement Agreement constitutes a reasonable resolution of all issues in this docket and respectfully requests that it be approved.
3. In the event that the Commission that is not inclined to approve the attached Settlement Agreement, Staff would ask that the procedural schedule be amended to allow the Parties time to file Pre-filed Testimony.

WHEREFORE, Staff requests this motion be granted.

Respectfully submitted,



Lauren N. Wright, #27616
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Kansas Corporation Commission
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OF THE STATE OF KANSAS**

Before Commissioners: Shari Feist Albrecht, Chair
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In the matter of the failure of Ace Energy,) Docket No.: 18-CONS-3339-CPEN
LLC. (“Operator”) to comply with K.A.R. 82-))
3-120(f).) CONSERVATION DIVISION
))
_____) License No.: 34998

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the Staff of the Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively) and Ace Energy LLC (“Operator”). Its effective date will be the date the Commission enters an order approving or amending the terms of the Agreement.

I. **JURISDICTION**

1. Pursuant to K.S.A. 74-623, the Commission shall have the exclusive jurisdiction and authority to regulate oil and gas activities.

2. Pursuant to K.S.A. 55-150 *et seq.*, the Commission has authority to regulate the construction, operation, and abandonment of any well and the protection of the useable water of this state from any actual or potential pollution from any well.

3. Pursuant to K.S.A. 55-155, operators and contractors, as defined in K.S.A. 55-150, shall be licensed by the Commission.

4. Pursuant to K.S.A. 55-162, if the Commission finds that such person violated any provisions of K.S.A. 55-150 *et seq.*, the Commission shall take any appropriate action necessary to prevent pollution and protect water supply.

5. Pursuant to K.A.R. 82-3-120(f) falsification of a well inventory shall be punishable by a penalty of up to \$5,000 and possible suspension of the operator's license.

II. BACKGROUND

6. On March 13, 2018, the Commission issued a Penalty Order against Operator for one violation of K.A.R. 82-3-120(f) finding that the Operator falsified their well inventory by changing the well status of twenty-five abandoned wells to producing wells. The Penalty Order assessed a \$5,000 penalty.

7. On March 28, 2018, the Operator timely filed a request for hearing.

8. On April 26, 2018, the Commission issued an *Order Designating Prehearing Officer and Setting Prehearing Conference*, setting a prehearing conference for May 15, 2018.

9. On May 15, 2018, the Prehearing Conference convened and the Parties agreed to a procedural schedule that established June 26, 2018 as the settlement deadline.

10. To avoid potential litigation costs and to foster administrative efficiency, Operator and Staff have agreed to the following payment plan.

III. TERMS OF THE SETTLEMENT AGREEMENT

11. The parties agree that the Commission has jurisdiction and authority over this matter. The parties also agree that adoption of this Agreement is in the public interest and that the Commission should approve the stipulations as set forth below.

12. Of the \$5,000 owed in this docket, Operator shall pay \$500 by September 30, 2018; \$500 by October 31, 2018; \$500 by November 30, 2018; \$500 by December 31, 2018; \$500 by January 31, 2019; \$500 by February 28, 2019; \$500 by March 31, 2019; \$500 by April 30, 2019; \$500 by May 31, 2019; and the remaining \$500 by June 30, 2019.

13. Operator understands and agrees that failure to comply with the provisions of any of the above paragraphs will result in the Commission suspending Operator's license without further notice until all past-due payments are paid. Operator further understands and agrees that if Operator is found conducting oil and gas operations following suspension of Operator's license, and Operator's license is still suspended, then the Commission shall order all of Operator's oil and gas operations sealed and shall assess an additional \$5,000 penalty.

14. Operator acknowledges that upon any suspension of Operator's license, this matter may be submitted for judicial enforcement or enforcement through the Kansas Attorney General's Office.

15. Staff agrees to recommend to the Commission that this Agreement be approved. Staff further agrees that upon approval by the Commission, and barring default proceedings pursuant to K.S.A. 77-520, this Agreement shall constitute a final resolution of this matter.

IV. RESERVATIONS

16. This Settlement Agreement fully resolves the issues specifically addressed between the parties. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

17. The terms and provisions of this Agreement have resulted from negotiations between the signatories and are interdependent. In the event the Commission does not approve the terms of the Agreement in total, any party has the option to terminate this Agreement and, if so terminated, none of the signatories hereto shall be bound by, prejudiced, or in any way affected by any of the terms or provisions hereof, unless otherwise provided herein.

18. Unless (and only to the extent) otherwise specified in this Agreement, the signatories to this Agreement shall not be prejudiced, bound by, or affected in any way by the

terms of this Agreement: (1) in any future Commission or court proceeding; (2) in any proceeding currently pending before the Commission under a separate docket; and/or (3) in this proceeding, if the Commission decides not to approve this Agreement in total or in any way conditions its approval of the same. This paragraph is not meant to limit future enforcement of this Agreement, should either party fail to fulfill all terms and provisions.

19. Unless (and only to the extent) otherwise specified in this Agreement, this Agreement does not prejudice or waive any party's legal rights, positions, claims, assertions or arguments in any proceedings in this docket, or any other proceeding before the Commission or in any court.

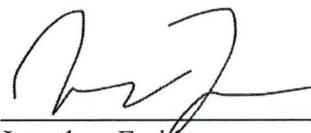
20. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the parties agree to be bound by its terms and the Commission's order incorporating its terms as to all issues addressed herein, and will not appeal the Commission's order.

21. This Settlement Agreement shall be binding on all parties upon signing.

IN WITNESS WHERETO, the parties hereby execute and approve this Settlement Agreement by subscribing their signatures below.

By: 

Lauren N. Wright
Litigation Counsel
Kansas Corporation Commission
266 N. Main, Ste. 220
Wichita, KS 67202

By: 

Jonathan Freiden
Ace Energy LLC
11704 Aberdeen Road
Leawood, KS 66211

CERTIFICATE OF SERVICE

18-CONS-3339-CPEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 07/10/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe