

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

Mark Sievers, Chairman  
Thomas E. Wright, Commissioner

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

August 8, 2012

Adam Lukens, Owner  
d/b/a Lukens Lawn & Landscape  
PO Box 771324  
Wichita, Kansas 67277

13-TRAM-108-PEN

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 3, 2012, by Kansas Corporation Commission Special Investigator Gary Goeller. For a full description of the penalty and process please refer to the Order that is attached to this notice.

### IF YOU ACCEPT THE PENALTY:

You have been assessed a \$600 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Fiscal Section of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by calling the Fiscal Office at 785-271-3274.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar can be found at the Commission's website [http://www.kcc.state.ks.us/trans/safety\\_meetings.htm](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

You must submit to one follow-up safety compliance review within the next 12 months. Staff will contact you at a later date to determine an appropriate time for this review.

### IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A Request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven (7) copies of the request to the Commission's Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215.

### IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operations.

Sincerely,

Amber Smith  
Litigation Counsel  
(785) 271-3301

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

Before Commissioners: Mark Sievers, Chairman  
Thomas E. Wright

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 ) Docket No. 13-TRAM-108-PEN  
Regulations and the Commission's Authority to )  
Impose Penalties, Sanctions and/or the )  
Revocation of Motor Carrier Authority. )

**PENALTY ORDER**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

**I. JURISDICTION**

1. 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. 66-1,108, 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.

2. Pursuant to K.S.A. 2011 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

## **II. BACKGROUND**

4. Adam Lukens, d/b/a Lukens Lawn & Landscape (Lukens Lawn & Landscape) operates under USDOT number 1417804.

5. Adam Lukens attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on March 20, 2012, on behalf of Lukens Lawn & Landscape.

6. Lukens Lawn & Landscape is a private motor carrier which primarily hauls lawn service equipment.

## **III. STAFF'S STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on July 3, 2012, Commission Staff (Staff) Special Investigator Gary Goeller conducted a compliance review of the operations of Lukens Lawn & Landscape. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, Mr. Goeller identified two (2) violations of the Motor Carrier Safety Regulations.

- a. On June 28, 2012, Lukens Lawn & Landscape required or permitted its driver, Adam Lukens, to operate a commercial motor vehicle, a 1999 Ford F 450, Kansas tag number [REDACTED], pulling a 2000 PJ trailer, Kansas tag number, [REDACTED], in intrastate commerce in Wichita, Kansas. This trip is evidenced by Mr. Lukens' time record, a copy of which is attached hereto

as Attachment "B". Lukens Lawn and Landscape permitted this transportation without first obtaining and documenting a successful periodic (annual) inspection on the commercial motor vehicles during the preceding 12-month period. This violation is evidenced by the absence of a periodic (annual) inspection report in the maintenance file of the vehicles at the time of the compliance review. Lukens Lawn and Landscape's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of Title 49 C.F.R. 396.17(a), as adopted by K.A.R. 82-4-3j, and as authorized by K.S.A. 2011 Supp. 66-1,129. Staff recommends a fine of \$500.

- b. During the transportation described in paragraph a., above, Lukens Lawn and Landscape failed to make inquiry into the driving record (MVR) of Adam Lukens within the preceding 12 months. This is evidenced by the absence of a MVR in Mr. Lukens' driver qualification file. Lukens Lawn and Landscape's failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of Title 49 C.F.R. Part 391.25(a) and (c), as adopted by K.A.R. 82-4-3g, as authorized by K.S.A. 2011 Supp. 66-1,112. Staff recommends a fine of \$100.

#### **IV. STAFF'S RECOMMENDATIONS**

- 8. Based upon the available facts, Staff recommends the Commission find Lukens Lawn & Landscape committed two (2) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSR), as

adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$600 for two (2) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Lukens Lawn & Landscape be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at [http://kcc.ks.gov/trans/safety\\_meetings.htm](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that Lukens Lawn & Landscape submit to one follow-up safety compliance review within the next twelve (12) months. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

## **V. CONCLUSIONS OF LAW**

12. The Commission finds it has jurisdiction over Lukens Lawn & Landscape because it is a motor carrier as defined in K.S.A. 2011 Supp. 66-1,108.

13. The Commission finds Lukens Lawn & Landscape committed two (2) violations of Kansas law that govern motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSR), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

### **THE COMMISSION THEREFORE ORDERS THAT:**

A. Adam Lukens, d/b/a Lukens Lawn & Landscape, of Wichita, Kansas is hereby assessed a \$600 civil penalty for two (2) violations of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Lukens Lawn & Landscape is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, Lukens Lawn & Landscape is ordered to submit to one follow-up safety compliance review within the next twelve (12) months.

C. Pursuant to K.S.A. 2011 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Executive Director, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Lukens Lawn & Landscape's right to a hearing, and this Penalty Order will become a Final Order assessing a \$600 civil penalty against Lukens Lawn & Landscape, and ordering Lukens Lawn & Landscape to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within twelve (12) months from the date of service of this Order.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. A corporation shall not be permitted to enter an appearance, except by its attorney.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 S.W. Arrowhead

Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*


F. Failure to pay the \$600 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in revocation of Lukens Lawn & Landscape's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. 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: AUG 08 2012

  
ORDER MAILED AUG 08 2012  
Patrice Petersen-Klein  
Executive Director

AS

## **ATTACHMENT “A”**



## KANSAS CORPORATION COMMISSION

US DOT #  
1417804Legal: ADAM LUKENS  
Operating (DBA): LUKENS LAWN & LANDSCAPE

MC/MX #: Federal Tax ID: [REDACTED] (SSN)

Review Type: Compliance Review (CR) - Receipt

Scope: Principal Office Location of Review/Audit: Company facility in the U. S. Territory: F

Operation Types Interstate Intrastate

Carrier: N/A HM  
Shipper: N/A N/A  
Cargo Tank: N/A

Business: Individual

Gross Revenue: [REDACTED] for year ending: 12/31/2011

Company Physical Address:

[REDACTED]  
[REDACTED]

Contact Name: Adam Lukens

Phone numbers: (1) [REDACTED] (2) Fax

E-Mail Address:

Company Mailing Address:

P O BOX 771324  
WICHITA, KS 67277

## Report Summary

Report	# of Pages
Part A - General	2
Part B - Violations	1
Part B - Recommendations	2
Review/Audit Receipt Page	1
<b>Total Pages</b>	<b>6</b>

Disclaimer: By signing below, I acknowledge that I have received a copy of this review/audit and agree with the total number of pages indicated (above) for each document. My signature does not imply agreement with the findings of the review/audit, however they have been discussed in detail with me.

QUESTIONS regarding this report or the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

1500 SW Arrowhead Road  
Topeka, KS 66604-4027  
Phone: (785)271-3151 Fax: (785)271-3283

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Adam Lukens

Title: Owner

Name:

Title:

Reported By: [Signature] Title: SI Code: KS8204 Date: 7/3/2012

Received By: [Signature] Title: [Signature]



## KANSAS CORPORATION COMMISSION


 US DOT #  
1417804

 Legal: ADAM LUKENS  
Operating (DBA): LUKENS LAWN & LANDSCAPE

MC/MX #: Federal Tax ID: [REDACTED] (SSN)

Review Type: Compliance Review (CR)

Scope: Principal Office Location of Review/Audit: Company facility in the U. S. Territory: F

Operation Types Interstate Intrastate

 Carrier: N/A HM  
Shipper: N/A N/A  
Cargo Tank: N/A

Business: Individual

Gross Revenue: [REDACTED] for year ending: 12/31/2011

Company Physical Address:

 [REDACTED]  
[REDACTED]

Contact Name: Adam Lukens

Phone numbers: (1) [REDACTED] (2) Fax

E-Mail Address:

Company Mailing Address:

 P O BOX 771324  
WICHITA, KS 67277

Carrier Classification

Private Property

Cargo Classification

Machinery, Large Objects

Hazardous Materials

9 Miscellaneous HM Carried Non-Bulk

Does carrier transport placardable quantities of HM? No

Is an HM Permit required? N/A

Driver Information

	Inter	Intra
< 100 Miles:		1
>= 100 Miles:		

Average trip leased drivers/month: 0

Total Drivers: 1

CDL Drivers:

Equipment

	Owned	Term Leased	Trip Leased
Truck	1	0	0
Trailer	2	0	0

	Owned	Term Leased	Trip Leased
Truck	1	0	0
Trailer	2	0	0

Power units used in the U.S.: 1

Percentage of time used in the U.S.: 100





LUKENS LAWN & LANDSCAPE (ADAM LUKENS dba)

U.S. DOT #: 1417804

Review Date:

07/03/2012

## Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

1500 SW Arrowhead Road

Topeka, KS 66604-4027

Phone: (785)271-3151 Fax: (785)271-3283

This report will be used to assess your safety compliance.

### Person(s) Interviewed

Name: Adam Lukens

Title: Owner

Name:

Title:





LUKENS LAWN & LANDSCAPE (ADAM LUKENS dba)  
U.S. DOT #: 1417804

Review Date:  
07/03/2012

### Part B Violations

1 STATE	Primary: 391.25(a) CFR Equivalent: 391.25(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 0
------------	---	-----------------	--------------	----------------------------------	--------------

**Description**

Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months.

**Example**

Driver Adam Lukens  
Trip Date 06282012

Carrier/owner/operator ran MVR the day of the review

2 STATE	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 2	Checked 2	Drivers/Vehicles In Violation	Checked 2
------------	---	-----------------	--------------	----------------------------------	--------------

**Description**

Using a commercial motor vehicle not periodically inspected.

**Example**

Driver- Adam Lukens  
Trip Date June 28, 2012

**Safety Fitness Rating Information:**

Total Miles Operated 12,000  
Recordable Accidents 1

OOS Vehicle (CR): 0  
Number of Vehicle Inspected (CR): 1  
OOS Vehicle (MCMIS): 2  
Number of Vehicles Inspected (MCMIS): 2

Your proposed safety rating is :

**This Review is not Rated.**





## Part B Requirements and/or Recommendations

### 1. For all Investigations:

- **Understand Why Compliance Saves Time and Money:** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
- **Document and Follow Through on Action Plans:** Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
- **NOTICE:** A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
- **NOTICE:** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:  
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities.

### 2. FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012.

The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents.

Motor carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site.

The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

### 3. You may prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter, and any additional evidence necessary to prove the corrective action has been taken to: Provide completed annual inspections for the truck and trailer. Please send the the completed annual





LUKENS LAWN & LANDSCAPE (ADAM LUKENS dba)  
U.S. DOT #: 1417804

Review Date:  
07/03/2012

### Part B Requirements and/or Recommendations

inspections to:

Kansas Corporation Commission  
Transportation Division  
Attn: Gary Davenport  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

4. Provide a copy of the vehicle annual inspections or equivalent; up to three (3) vehicles.
5. Establish a system to make sure annual (periodic) inspections are kept current
6. Stay in Contact with your KCC Investigator for any questions or issues with continued safety compliance.



## **ATTACHMENT “B”**

Eri June 1  
WEFL 8-1  
Ehough 5

thurs 7  
Ehough 8  
Shank 8-4  
Blow luter

11/3 009

thurs 7

U 200  
elite 69

SAT

JUNE 28-5

Jackson Marcus  
takarass Kirby 2  
BJones Addy  
Roberts Ringer  
Shank  
Kirby 1

fri 8 8-9  
WEFL Kirby 2  
Jackson Marcus  
gribben Kirby 1  
tullgrass Addy  
BJ Ringer  
Roberts

thurs 14 8-7  
WEFL 11  
Shank  
Ehough 13

Fri 15 Kirby  
Jackson Addy  
gribben Ringer  
tallorass  
BJ 8-5  
Roberts 9  
Rudy 2  
marcus

Fri 22  
Jackson Shank  
gribben Kirby 2  
tallorass Kirby 1  
BJones Addy  
Roberts Ringer  
8-4 10

thurs 2  
Jackson  
gribben 8-5  
tallorass  
BJ  
Ringer  
Kirby 2  
marcus  
Kirby 1  
Addy  
Ringer 9

8-12  
mon June 4 4  
gold key martia  
turner Bobby  
Jackson 2 LTC

mon 11 8-11  
turner  
LTC

thurs 19 8-4  
Auburn Hills  
LTC

mon 25  
LTC 8-2  
Bobby  
martia turner  
Jackson 2  
turner gold key

tue June 5 8-12  
Auburn Hills 4

tue 12 8-12  
Auburn Hills

Jackson  
Hansoff  
Clary  
clapman  
folks  
Charles  
gibson  
grow  
Rushbrook  
clapman

tue 26  
Auburn Hills  
Clary  
Hansoff  
clapman 8-3  
folks  
Duty 7

WED 6 8-3  
Hansoff  
Clary  
clapman  
folks  
Duty  
Charles  
gibson  
grow  
Rushbrook  
classen

WED 13  
Hansoff  
Clary  
clapman  
folks  
Duty  
Charles  
gibson  
grow  
Rushbrook  
classen  
8-4 6

thurs 21  
Ehough  
marcus 7

WFLC  
Rushbrook  
grow  
classen  
8-4 8



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 **AUG 08 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.