THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:

Dwight D. Keen, Chairman

Shari Feist Albrecht Jay Scott Emler

In the Matter of the Investigation of Neal Concrete,	
Inc., of Wichita, Kansas, Regarding the Violation of	
the Motor Carrier Safety Statutes, Rules and	Docket No. 19-TRAM-264-PEN
Regulations and the Commission's Authority to) Docket No. 19-1 KAM-204-1 EN
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

- Commission Staff conducted a Safety Compliance Review on Neal Concrete, Inc.
 (Respondent) on November 29, 2018, wherein Special Investigator Gary Goeller discovered four
 (4) violations of the motor carrier safety statutes, rules and regulations.
- 2. On January 15, 2019, the Commission issued a Penalty Order assessing Respondent a \$1,400 civil penalty.
- 3. On or about January 15, 2019, Brian Neal, of Neal Concrete, Inc. and Ahsan Latif, Litigation Counsel for Staff, informally discussed the possibility of a settlement. During the informal discussion, 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 filed a Joint Motion for its approval to the Commission on March 1, 2019. In the Stipulated Settlement Agreement, Respondent stipulates to the violations as set out in the Commission's Penalty Order. Respondent further agrees to pay the civil penalty of \$1,400 in three monthly payments. The Respondent will submit the first payment of \$500 on or before March 15, 2019. The remaining \$900 will be paid by the Respondent in monthly installments of \$450 beginning April 15, 2019, with the last payment being due on or before May 15, 2019.
- 5. 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.
- 6. Respondent further agrees to submit to one follow-up safety compliance review within 18 months of the date of this Order.
- 7. Respondent agrees to attend a Commission-sponsored safety seminar within 90 days of the date of this Order and will provide Litigation Counsel with proof of attendance. 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

- 8. 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.
- 9. 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.

- 10. The Commission further concludes that pursuant to K.S.A. 2018 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. 2018 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 2018 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.
- 11. 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 Neal Concrete, Inc. 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. 2018 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.

Keen,	Chair;	Albrecht,	Commissioner;	Emler,	Commissioner

Dated:	03/07/2019

Lynn M. Retz

Secretary to the Commission

Lynn M. Ret

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CERTIFICATE OF SERVICE

19-TRAM-264-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

irst class mail and electronic service on03/07/20	
AHSAN LATIF, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604 Fax: 785-271-3354 a.latif@kcc.ks.gov	BRIAN R. NEAL, VICE PRESIDENT NEAL CONCRETE, INC. 1906 W 69TH N WICHITA, KS 67204-1055 captainconcrete0472@yahoo.com
	/S/ DeeAnn Shupe
	DeeAnn Shupe