

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

In the Matter of the Investigation of **Construction** )  
**Solutions, L.L.C., of Paola, Kansas**, Regarding the )  
Violation of the Motor Carrier Safety Statutes, Rules ) Docket No. 15-TRAM-484-PEN  
and Regulations and the Commission's Authority to )  
Impose Penalties, Sanctions and/or the Revocation of )  
Motor Carrier Authority )

**STAFF'S MOTION TO DISMISS REQUEST FOR HEARING AND WAIVE PORTION  
OF A CIVIL PENALTY**

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) presents the above-captioned matter to the Commission for dismissal of the request for hearing and waiver of a portion of a civil penalty, with prejudice, against Construction Solutions, L.L.C., of Paola, Kansas (Respondent). In support of its Motion, Litigation Counsel states as follows:

1. On May 5, 2015, the Commission issued a Penalty Order in this docket assessing a \$2,050 civil penalty against Respondent for violations found during a March 17, 2015, compliance review.
2. On May 15, 2015, Respondent submitted a request for hearing, which was filed in this docket on May 19, 2015.
3. On June 2, 2015, a Notice of Hearing was filed in this docket, setting an evidentiary hearing for July 22, 2015.
4. On July 1, 2015, Staff completed its review of the records pertaining to this docket. Staff recommends the Commission uphold against Respondent the \$250 civil penalty for failing to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver, in violation of 49 C.F.R. 391.25(a) and (c), as adopted by K.A.R. 82-4-3g; the \$250 civil

penalty for failing to confirm that each of its drivers are medically examined and certified, in violation of 49 C.F.R. 391.45(b)(1) and 391.51(b)(7), as adopted by K.A.R. 82-4-3g; and the \$500 civil penalty for failing to conduct periodic (annual) inspections on its commercial motor vehicles, in violation of 49 C.F.R. 396.17(a), as adopted by K.A.R. 82-4-3j. Staff further recommends that Respondent's civil penalty be reduced from \$750 to \$250 for failing to require its drivers to keep records of duty status for each 24-hour period using the method described in 49 C.F.R. 395.8(a) and to submit the original record to the motor carrier within 13 days of its creation, in violation of 49 C.F.R. 395.8(a), as adopted by K.A.R. 82-4-3a. Staff also recommends that Respondent's civil penalty of \$300 be waived for failing to pay appropriate Unified Carrier Registration (UCR) fees as set out in 49 C.F.R. 367.30, in violation of K.A.R. 82-4-30a.

5. Staff recommends waiver of the aforementioned portions of the civil penalty because Respondent appears to have made a good faith effort to come into compliance after the violations, as demonstrated by Respondent's prompt payment of outstanding UCR fees. Also, Respondent provided Staff with some measure of documentation by which to reduce the record of duty status penalty. Thus, Staff recommends \$800 of Respondent's original \$2,050 civil penalty assessed in this docket be waived, bringing Respondent's total civil penalty to \$1,250.

6. On July 1, 2015, based on negotiations with Respondent, Respondent agrees to drop its challenge to the above violations and accept the waiver of \$800 of its original \$2,050 civil penalty assessed in the May 5, 2015, Penalty Order. Thus, the evidentiary hearing scheduled for July 22, 2015, is no longer necessary.

7. Staff, therefore, moves to dismiss Respondent's request for a hearing based on the fact that Respondent does not contest the violations, and to waive \$800 of the original \$2,050

civil penalty assessed against Respondent in the May 5, 2015, Penalty Order, while requiring Respondent to comply with all other actions ordered in the above-referenced Penalty Order.

WHEREFORE, for the reasons set forth above, Staff respectfully requests the Commission find that Construction Solutions, L.L.C.'s request for hearing be dismissed, \$800 of Respondent's original \$2,050 civil penalty assessed in this docket be waived, Respondent pay the remaining \$1,250 civil penalty assessed in this docket, Respondent comply with all other actions ordered in the above-referenced Penalty Order, and the status of this docket be changed to "closed."

Respectfully submitted,

A handwritten signature in blue ink, reading "Michael J. Duenes", with a horizontal line underneath.

Michael J. Duenes, S. Ct. #26431  
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For Commission Staff

**CERTIFICATE OF SERVICE**

15-TRAM-484-PEN

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff's Motion to Dismiss Request for Hearing and Waive Portion of a Civil Penalty was serve via electronic service this 1st day of July, 2015, to the following:

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/s/ Vicki Jacobsen

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Vicki Jacobsen