

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

Before Commissioners: Jay Scott Emler, Chairman  
Shari Feist Albrecht  
Pat Apple

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. )

**ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. JURISDICTION AND BACKGROUND**

1. Pursuant to K.S.A. 2015 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. 2015 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. 2015 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. Pursuant to K.S.A. 2015 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

## **II. FINDINGS OF FACTS**

4. Adam Lukens, d/b/a Lukens Lawn & Landscape of Wichita, Kansas (Respondent) is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108, that operates commercial motor vehicle(s) in intrastate commerce.

5. Respondent operates under USDOT Number 1417804.

6. On August 8, 2012, Respondent was issued a penalty assessment for violations of the 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. The Commission's Penalty Order is attached hereto as Attachment "A" and is hereby incorporated by reference.

7. The Penalty Order was mailed to Respondent via certified mail, return receipt requested, on August 8, 2012. A Proof of Service of the Penalty Order was filed on September 6, 2012, indicating the Respondent was served with the Penalty Order on August 15, 2012.

8. On November 6, 2012, the Commission issued an Order Approving Stipulated Settlement Agreement wherein Respondent agreed to pay the \$600 penalty in eight (8) monthly installments of \$75 beginning September 28, 2012. See a copy of the

Commission's Order attached hereto as Attachment "B" and is hereby incorporated by reference.

9. As of August 1, 2016, Commission records indicate Respondent has not complied with requirements of the Order Approving Stipulated Settlement Agreement in that Respondent has a remaining balance due of \$375.

10. On August 23, 2016, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations due to the carrier's failure to pay.

### **III. CONCLUSIONS OF LAW**

9. The Commission finds it has jurisdiction over Respondent as the Respondent is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

10. The Commission finds Respondent received sufficient notice of the Commission's Orders and the requirements to pay the fine.

11. The Commission finds Respondent failed to act upon this notice.

12. The Commission finds Respondent's failure to comply with the requirements of the Penalty Order is intentional and therefore this Commission orders the Respondent to suspend all intrastate motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as the carrier takes the necessary steps to become compliant.

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

A. Adam Lukens, d/b/a Lukens Lawn & Landscape of Wichita, Kansas is to be immediately suspended from all intrastate commercial motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as Respondent pays the remaining balance

due of \$375, and brings its motor carrier operation into compliance with motor carrier safety statutes, rules and regulations. This Suspension of Intrastate Motor Carrier Operations Order may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

B. **Pursuant to K.S.A. 2015 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 Secretary, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order.** Service of this order will be by certified mail, return receipt requested, and service is complete when Respondent signs the Domestic Return Receipt. Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of Respondent's right to a hearing, and this Order will become a Final Order against Respondent, suspending Respondent's motor carrier operations, ordering Respondent to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance.

C. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized

representative of the corporation. K.S.A. 2015 Supp. 66-1,142b(e) and amendments thereto.

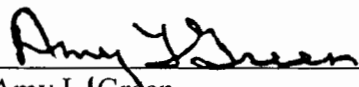
D. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

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

**BY THE COMMISSION IT IS SO ORDERED.**

Emler, Chair; Albrecht, Commissioner; Apple, Commissioner

Dated: SEP 01 2016

  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

AAL

Order Mailed Date  
SEP 02 2016

## **ATTACHMENT “A”**

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 # 1417804	Legal: 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		Business: Individual	
Shipper: N/A N/A		Gross Revenue: [REDACTED] for year ending: 12/31/2011	
Cargo Tank: N/A			
Company Physical Address: [REDACTED] [REDACTED]			
Contact Name: Adam Lukens Phone numbers: (1) [REDACTED] (2) [REDACTED] Fax [REDACTED] E-Mail Address: [REDACTED]			
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	
Total Pages		6	
<div style="border: 1px solid black; padding: 5px;">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.</div>			
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.			
<u>Person(s) Interviewed</u> Name: Adam Lukens Title: Owner Name: Title:			
Reported By: [Signature]		Title: SI	
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	Business: Individual		
Shipper: N/A		N/A	Gross Revenue: [REDACTED] for year ending: 12/31/2011		
Cargo Tank: N/A					
Company Physical Address:					
[REDACTED]					
Contact Name: Adam Lukens					
Phone numbers: (1) [REDACTED] (2) [REDACTED] Fax [REDACTED]					
E-Mail Address: [REDACTED]					
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	Average trip leased drivers/month: 0	
< 100 Miles:			1	Total Drivers: 1	
≥ 100 Miles:				CDL Drivers:	
Equipment					
	Owned Term Leased Trip Leased			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  
Name:

Title: Owner  
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 0	Checked 0
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**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 2	Checked 2
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**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 carrier's 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.



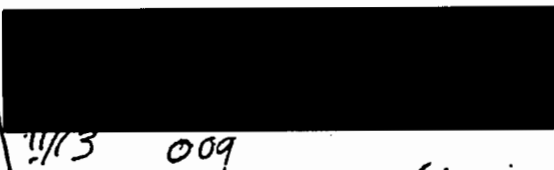
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## **ATTACHMENT “B”**

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Eri June 1  
WEFL 8-1  
Ehig 5

thurs 7  
Ehig 8  
Shank 8-4  
Blow lution



Bright Fri

SAT  
JUNE 28-5  
JACKSON Marcus  
takarass Kirby 2  
BJones Addy  
Roberts Ringer  
Shank  
Kirby 1

Fri 8 8-5  
WEFL Kirby 2  
Jackson Marcus  
gribben Kirby 1  
tallgrass Addy  
BJ Ringer  
Roberts

thurs 14 8-7  
WEFL 11  
Shank  
Ehig 13

U200  
elite 69  
Fri 22  
JACKSON Shank  
gibben Kirby 2  
tallgrass Kirby 1  
BJones Addy  
Roberts Ringer  
8-4 10

thurs 2  
JACKSON  
gribben 8-5  
tallgrass  
BJ  
Ringer  
Kirby 2  
Marcus  
Kirby 1  
Addy  
Ringer 9

8-12  
mon June 4 4  
gold key Martin  
farner Bobby  
JACKSON 2 LTC

mon 11 8-11  
turner  
LTC

Fri 15 Kirby  
JACKSON Addy  
gibben Ringer  
tallgrass  
BJ 8-5  
Roberts 9  
marcus

mon 25  
LTC 8-2  
Bobby 6  
martin Bobby  
JACKSON 2  
turner gold key

tue June 5 8-12  
Auburn Hills 4

tue 12 8-12  
Auburn Hills

thurs 19 8-4  
Auburn Hills  
LTC

thurs 26  
Auburn Hills  
Clay Gibson  
trausoff  
clapman 8-3  
folks 7  
Duty

WED 6 8-3  
trausoff gibson 7  
Clay grow  
clapman Richman  
folks classen  
Duty  
charlie

WED 13  
trausoff gibson  
Clay grow  
clapman Richman  
folks classen  
Duty  
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JACKSON  
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Clay  
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charlie  
gibson  
grow  
Richman  
clapman

thurs 21  
Ehig 7  
marcus

WFLC Ehig 8  
Richman  
grow 8-4 8  
classen

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

DATE AUG 08 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 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.

## **ATTACHMENT “B”**



**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.

**CERTIFICATE OF SERVICE**

13-TRAM-108-PEN

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/hand delivered on SEP 01 2016.

ADAM LUKENS, OWNER  
ADAM LUKENS  
D/B/A Lukens Lawn & Landscape  
11017 HADDEN CIRCLE  
WICHITA, KS 67215

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe  
DeeAnn Shupe

**Order Mailed Date**

**SEP 02 2016**