

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

Before Commissioners: Mark Sievers, Chairman
Ward Loyd
Thomas E. Wright

In the Matter of the Investigation of **Chad Wende,**)
d/b/a Landmark Landscape, of Topeka, Kansas,)
Regarding the Violation of the Motor Carrier Safety) Docket No. 12-TRAM-244-PEN
Statutes, Rules and Regulations and the 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 Chad Wende, d/b/a Landmark Landscape (Respondent) on August 31, 2012, wherein Special Investigator Lance Jones discovered four (4) violations of the motor carrier safety statutes, rules and regulations.
2. On November 4, 2011, the Commission issued a Penalty Order assessing Respondent a \$2,900 civil penalty.
3. On or about March 22, 2012, Chad Wende, Owner of Chad Wende, d/b/a Landmark Landscape and Amber Whitlock, 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 April 18, 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 three (3) monthly payments. The first payment due in the amount of \$500 on April 16, 2012, and the remaining two (2) payments in the amount of \$1,200 each, due and payable on the 15th day of each month beginning May, 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. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in

K.S.A. 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 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 Chad Wende, d/b/a Landmark 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 thirty (30) 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. 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; Loyd, Com.; Wright, Com.

Dated: APR 25 2012


ORDER MAILED APR 25 2012

Patrice Petersen-Klein
Executive Director

AS

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
Chad Wende, OWNER D/B/A Landmark Landscape 3737 Hodges Rd Silver Lake, KS 66539		
AMBER SMITH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED **APR 25 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.