



**VIVA
INTERNATIONAL, INC.**

2020-01-27 13:35:20
Kansas Corporation Commission
/s/ Lynn M. Retz
13200 Metcalf Ave. ♦ Suite #200
Overland Park, Kansas 66213

Received
KANSAS CORPORATION COMMISSION

JAN 27 2020

CONSERVATION DIVISION
WICHITA, KS

January 22, 2020

Michael Glamann
Litigation Counsel
Kansas Corporation Commission – Conservation Division
266 N. Main Street, Suite 220
Wichita, KS 67202-1513

RE: Penalty Assessment Docket # 20-CONS-3182-CPEN

Dear Mr. Glamann:

I am formally requesting a hearing on the above mentioned docket, as I am contesting the penalty assessment for non-reporting of spills on the Dale Wright Lease, Section 18, Township 22 South, Range 22 East, Linn County, Kansas, on behalf of my company Viva International, Inc., Operator License #5556.

The Dale Wright lease was the subject of a Lease Forfeiture case number 2017-CV-000240, Linn County Kansas District Court. Due to the lack of capital necessary to retain my legal representative, Kurt Kluin, by April 24, 2019, for the trial, there was a Journal Entry of Judgment awarding Mr. Wright cancellation of the lease filed on April 30, 2019. Copy of which is enclosed.

The lease was effectively canceled on that date, which removed Viva International, Inc. of any rights to the lease, including the right to access the property. How is it plausible that Viva is responsible to report spills on a property that they no longer have legal rights nor access? The reports state that Jason Kent reported the spills on behalf of Mr. Wright. It is my understanding that the company that Jason represents, RJ Enterprises, is going to operate the lease for Mr. Wright. Mr. Wright resides on and farms that land and was granted cancellation of the lease on April 30, 2019, but the spills were not identified nor reported until October 29, 2019? The reports even state that the lease had not been operating for "several months" at that time.

The relief I am seeking is that Viva International, Inc. is granted reversal of the penalty assessment on the grounds that the responsibility for cleaning up the spills and causing the spills that were reported 6 months after the judgment, does not fall on Viva International, Inc. I am also questioning how the Commission can send out a NOV letter on October 29, 2019 and have any expectation that the clean up could be completely resolved by the deadline of November 4, 2019.

Sincerely,

Robert P. Bukaty
President

ELECTRONICALLY FILED
2019 Apr 30 AM 9:43
CLERK OF THE LINN COUNTY DISTRICT COURT
CASE NUMBER: 2017-CV-000240



Court: Linn County District Court
Case Number: 2017-CV-000240
Case Title: Wright Living Trust, dated May 26, 1995 vs. Viva International, Inc.
Type: Journal Entry

SO ORDERED.

/s/ Honorable Steven C. Montgomery, District Court
Judge

IN THE DISTRICT COURT OF LINN COUNTY, KANSAS

Dale R. Wright and Lois M. Wright, Co-Trustees
of the Wright Living Trust dated May 26, 1995,
Plaintiffs,

vs.

Viva International, Inc.,

Defendant.

Case No. 17 CV 240
Pursuant to K.S.A. Ch. 60

JOURNAL ENTRY OF JUDGMENT

NOW ON THIS 29th day of April, 2019, the above captioned matter comes on before the court on plaintiffs' motion for judgment.

THEREUPON, after reviewing the file and being duly advised in the premise, the Court finds and orders as follows:

1. The Court granted the Pretrial Order in this case on April 9, 2019. Pursuant to the terms of the Pretrial Order, the defendant had until April 24, 2019 to secure a new attorney, otherwise the Court shall grant cancellation of the Wright lease and plaintiffs' attorney fees.
2. The defendant failed to secure a new attorney on or before April 24, 2019.
3. The plaintiffs are hereby granted cancellation of the Wright lease and plaintiffs' attorney fees in the amount of \$10,170.00.

IT IS SO ORDERED that plaintiffs are granted judgment against the defendant for cancellation of the Wright lease and for attorney fees in the amount of \$10,170.00, plus interest at the legal rate from and after the Day of Judgment.

This Order is effective as of the time and date shown on the electronic file stamp.

Prepared and Approved By:

/s/ Kristina J. Branstetter

Kristina J. Branstetter #27619

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