

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Manager of the Manufactured Housing and)
Modular Units Program of the Public)
Service Commission,)

Complainant,)

v.)

Case No. MC-2006-0388

Four Season's Manufacturing, Inc.)
d/b/a Four Seasons Housing, Inc.)

Respondent.)

JOINT MOTION FOR COMMISSION APPROVAL OF STIPULATED AGREEMENT

COMES NOW the Director of the Manufactured Housing and Modular Units Program of the Public Service Commission ("Director" and "Program"), and Four Seasons Manufacturing, Inc., an Indiana corporation listed as Four Season's Manufacturing, Inc. ("Four Seasons"), (collectively the "Parties"), and for their Joint Motion, state as follows.

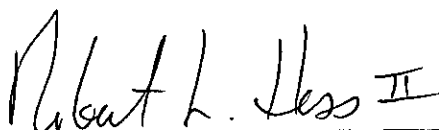
1. On May 16, 2006, the Commission issued its *Order Setting Prehearing Conference* wherein it directed the Parties to discuss the possibility of settlement and to develop a proposed procedural schedule leading up to an evidentiary hearing.

2. On June 26, 2006, the Commission issued an order directing the parties to file a proposed pre-hearing schedule.

3. Since the prehearing conference, held on May 26, 2006, the Parties have worked toward a settlement of all of the outstanding issues in this case and have finalized their settlement in the *Stipulated Agreement*, attached hereto as Attachment A and incorporated by reference herein.

4. The Parties are prepared to appear before the Commission to respond to questions about this *Stipulated Agreement* at an on-the-record presentation scheduled for that purpose, or at one of the Commission's open agenda meetings.

WHEREFORE, the Parties request that the Commission grant their *Joint Motion For Commission Approval Of Stipulated Agreement* and issue an order approving the attached *Stipulated Agreement*, and close this case.




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Attorneys For
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Dated: 7/14/2006

Respectfully submitted,



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Dated: 7/14/06

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Manager of the Manufactured Housing and)
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Service Commission,)

Complainant,)

v.)

Case No. MC-2006-0388

Four Season's Manufacturing, Inc.)
d/b/a Four Seasons Housing, Inc.)

Respondent.)

STIPULATED AGREEMENT

This *Stipulated Agreement* is made and entered into this 14th day of July, 2006, by and between the Director of the Manufactured Housing and Modular Units Program of the Public Service Commission ("Director," "Program" and "Commission"), and Four Seasons Manufacturing, Inc., an Indiana corporation listed as Four Season's Manufacturing, Inc. ("Four Seasons") (collectively referred to as "Parties").

RECITALS

A. The Director filed the above-captioned *Complaint* against Four Seasons on April 7, 2006, in Commission Case No. MC-2006-0388.

B. The *Complaint* alleged that Four Seasons:

(1) offered for sale a new modular unit home (eventually purchased by Larry and Joyce King) without the required Missouri "Seal"¹ as is required of manufacturers that sell these homes in Missouri under Section 700.015(4) and Commission Rule 4 CSR 240-123-030(1);

¹ Section 700.010(13) RSMo 2005 defines "Seal" as "...a device, label or insignia issued by the public service commission, U.S. Department of Housing and Urban Development, or its agent, to be displayed on the exterior of the manufactured home, or modular unit to evidence compliance with the code;"

(2) failed to affix a manufacturer "Data Plate" to the Kings' new modular unit home; and, failed to list, on a copy of the manufacturer "Data Plate" that Four Seasons faxed to the Commission subsequent to Staff's March 14, 2006 inspection, the codes to which the Kings' new modular unit home was built;² and,

(3) shipped the Kings' new modular unit into Missouri on or about February 6, 2006, without having secured approval from the Commission for the modular unit plan used by Four Seasons in manufacturing the Kings' home.³

C. On May 16, 2006, the Commission issued its *Order Setting Prehearing Conference* directing the Parties to appear at a prehearing conference on May 26, 2006. At that conference, the parties began discussion of settlement possibilities. As a result of these discussions, the Parties desire to settle the outstanding issues of this case on terms that are satisfactory to the Commission.

D. To avoid the delay, uncertainty, and expense of protracted litigation of the above claims, the Parties have reached a settlement of all outstanding issues in this *Complaint* pursuant to the terms and conditions listed in this *Stipulated Agreement* below. This *Stipulated Agreement* is neither an admission of any liability or fault by Four Seasons nor a concession by the Director that the claims are not well-founded.

NOW, THEREFORE, the Parties agree and stipulate as follows:

1. The Director agrees to move to dismiss this *Complaint*, Case No. MC-2006-0388, if the Commission approves this *Stipulated Agreement*.

² Commission Rule 4 CSR 240-123-080(6) states, in relevant part, that "Each modular unit shall bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location." This rule further requires that "Each data plate shall include...the code the unit was built to..."

³ Commission Rule 4 CSR 240-123-040(11) requires that "All subsequent modular unit plans and installation diagrams for each additional type of modular unit (or model) to be manufactured must also be submitted to the director for approval."

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2. The Commission has the authority to direct its General Counsel's Office to seek penalties in circuit court for violation of Public Service Commission rules under Section 386.600 RSMo, which provides that:

An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the commission under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission. [*emphasis added*]

Section 700.115.2 RSMo states:

Notwithstanding any provisions of subsection 1 of this section to the contrary, *whoever violates any provision of this chapter shall be liable to the state of Missouri for a civil penalty in an amount which shall not exceed one thousand dollars for each such violation. Each violation of this chapter shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required by this chapter*; except that, the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation. [*emphasis added*]

If the Commission found Four Seasons committed the violations asserted by the Director and listed in paragraph "B" above, it could authorize the Staff to seek a maximum penalty of \$3,000 in circuit court. For the sole purpose of settlement of the Director's *Complaint*, Four Seasons agrees to remit a monetary payment in the amount of \$3,000.00 to the state public school fund.

3. Four Seasons will remit a payment of \$3,000.00 to the public school fund of the state pursuant to Section 166.011, RSMo 2005. The payment shall be made out to the Director of Revenue, State of Missouri, and submitted to the Missouri Public Service Commission, Attn: Budget and Fiscal Services, P.O. Box 360, Jefferson City, MO 65102. The Commission will then forward the check to the appropriate agency for deposit in the public school fund. This payment shall be submitted to the Commission within ten (10) days of the Commission's approval of this *Stipulated Agreement*.

4. Four Seasons agrees that if, after a hearing before the Commission pursuant to Commission rules and any appeals thereof, the Commission determines that Four Seasons has violated Commission rules after the date of this *Stipulated Agreement*, (a) by offering for sale a new modular home without the required Seal, (b) by failing to affix a data plate to any new modular unit home, (c) by failing to list the code to which a new modular unit home was built on the data plate, or (d) by shipping a new modular unit home into Missouri without having secured approval from the Commission for the new modular unit home plan used in manufacturing that home, then Four Seasons will pay to the state public school fund no less than \$1,000 and no more than \$2,000 for each violation that is determined to have occurred within two years of the date of the Commission's approval of this *Stipulated Agreement*.

5. Four Seasons will implement and maintain a quality control procedure (hereinafter referred to as the "Procedure"), which it may amend, revise, or replace from time to time as it deems necessary and appropriate. The Procedure will address and include the following:

(a) The steps that Four Seasons will take to renew its model plans annually and on time as required by Commission rules.

(b) A detailed description of the process by which Four Seasons' Quality Control section will conduct inspections of its homes, and how these inspections will ensure that each home contains the proper Missouri Seal and Data Plate affixed to it before being shipped to Missouri.

(c) The job titles and positions of each manager, supervisor, and inspector charged by Four Seasons with the responsibility of conducting these inspections.

(d) A description of all functions or activities of Four Seasons and any third party so involved (such as T.R. Arnold) and how these functions/activities are divided.

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(e) The signature and date of approval of the appropriate manager or supervisor of Four Seasons and its third party.

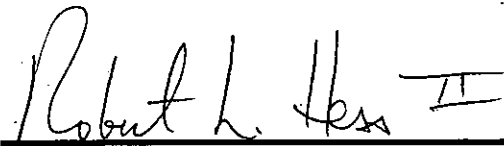
Four Seasons will submit its initial Procedure to the Director for his review and approval prior to the submission of this *Stipulated Agreement* to the Commission for its review and approval.

6. The Director also shall have the right to provide, at any agenda meeting at which this *Stipulated Agreement* is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged.

7. The Parties hereby agree to the terms of this *Stipulated Agreement* and do hereby submit this agreement for Commission approval. In the event the Commission does not approve this *Stipulated Agreement*, or approves this *Stipulated Agreement* with modifications or conditions that a party to this proceeding objects to within 7 days after notice and prior to the effective date of the Order approving this *Stipulated Agreement*, then this *Stipulated Agreement* shall be void and no signatory shall be bound by any of the agreements or provisions hereof, except as otherwise provided herein.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year first above written:

7/14/2006




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Dated: 7/14/2006



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Dated: 7/14/06