

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24C-0215-INS

IN THE MATTER OF COMMISSION ACTION AGAINST THE CERTIFICATE(S) AND PERMIT(S) OF MOTOR CARRIERS CONCERNING FINANCIAL RESPONSIBILITY PURSUANT TO § 40-10.1-112, C.R.S., AND RULE 4 CCR 723-6-6008 OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE.

**RECOMMENDED DECISION
REVOKING AUTHORITIES AND PERMITS**

Mailed Date: July 8, 2024

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I. STATEMENT AND SUMMARY

1. Except as noted, this Recommended Decision grants the relief sought in the Public Utilities Commission Staff’s (“Commission Staff” or “Staff”) Complaints against the motor-carrier Respondents listed in Appendix A to this Recommended Decision, revoking Respondents’ authorities and permits based on their failure to keep currently effective proof of financial responsibility on file with the Public Utilities Commission (“Commission” or “PUC”). This Recommended Decision provides avenues for Respondents listed in Appendix A to avoid revocation by taking action before this Recommended Decision becomes effective.

II. BACKGROUND, FINDINGS, LAW, ANALYSIS, AND CONCLUSIONS**A. Background**

2. Commission Staff instituted the cases in this proceeding by “Order of Summary Suspension and Complaint and Notice of Hearing” (Complaints) against the motor carrier-Respondents¹ in this proceeding on May 17, 2024.²

3. The Complaints against each of the Respondents allege that the Commission received notice from the Respondents’ insurance or surety carriers that the Respondents’ insurance or surety coverage will be cancelled as specifically identified in each Complaint.³ The Complaints further notify Respondents that their authorities or permits have been, or will be, summarily suspended on the date specified in each Complaint and inform Respondents that a hearing will be held by video conference on June 12, 2024, at 12:00 p.m. to determine whether

¹ This proceeding involves numerous Respondents against whom the Commission initiated Complaints by sending them each an “Order of Summary Suspension and Complaint and Notice of Hearing.” Hearing Exhibit 2. Each of those Complaints, which is assigned a unique “Case No.,” specifies the grounds unique to each Respondent. And each of those case numbers are part of this single proceeding.

² Hearing Exhibit 2.

their authorities or permits should be permanently revoked for failing to maintain proper evidence of insurance or surety coverage with the Commission.⁴

4. On June 10, 2024, Staff made a filing stating that Hearing Exhibits 1 through 5 were served on Respondents by e-mail that same day; at the same time, Staff filed those exhibits.⁵

5. The Administrative Law Judge (ALJ) held the hearing as noticed in the Complaints, on June 12, 2024, at approximately 12:00 p.m. Staff appeared with counsel, Aileen Chong. Five respondents appeared:

- Luis Nava appeared on behalf of Revelation Limo, LLC (Revelation Limo), PUC No. LL-03956, Case No. 14483-INS;
- Tobias Usseglio appeared on behalf of T-Bones Services, Inc., doing business as Total Mountain Service's (T-Bones), PUC No. T-05459, Case No. 14460-INS;
- Tonya Ridgley appeared on behalf of Integrity Roadside & Recovery LLC (Integrity), PUC No. T-05543, Case No. 14515-INS;
- Edwin Sifferlin appeared by telephone from the Commission's offices — after misunderstanding the Complaint and notice sent to all parties — on behalf of MTN Transportation, LLC, doing business as MTN Transportation (MTN Transportation), PUC No. LL-01899, Case No. 14451-INS; and,
- Jose Carbajal appeared on behalf of Pantusa Towing Colorado LLC (Pantusa Towing), PUC No. T-05426, Case No. 14482-INS.

6. During the hearing, Ms. Marquita Riley (Admin Asst, PUC), Mr. Nava, Mr. Usseglio, Ms. Ridgley, Mr. Sifferlin, and Mr. Carbajal testified. Staff Hearing Exhibits 1 through 5 were admitted into evidence without objection. Mr. Nava offered Respondent Hearing Exhibits 100 and 101 on behalf of Revelation Limo. Mr. Carbajal offered Respondent Hearing Exhibit

³ *Id.*

⁴ Hearing Exhibits 2-3.

200 on behalf of Pantusa Towing. Respondent Hearing Exhibits 100, 101, and 200, were admitted into evidence without objection.

7. Mr. Sifferlin expressed a desire to offer into evidence two documents — which he described as copies of certificates of insurance from Berkshire Hathaway showing that MTN Transportation is insured — which were to be marked as Hearing Exhibits 300 and 301. The Commission’s legal assistant, Stephanie Kunkel, sent Mr. Sifferlin an email with a link to the box.com folder in which the two exhibits needed to be uploaded; the undersigned ALJ received a copy of Ms. Kunkel’s email to Mr. Sifferlin. However, because he lacked the ability to upload the documents from his phone while he was in the Commission’s offices, Mr. Sifferlin requested additional time to upload the documents after the conclusion of the hearing. Counsel for Staff, Ms. Chong, and all of the other Respondents in attendance at the hearing indicated they had no objection to MTN Transportation’s late submission of evidence. The ALJ verbally granted Mr. Sifferlin’s request, giving him until the close of business on June 13, 2024 — the day after the hearing — to submit the documents he wished to offer as exhibits. Despite being granted additional time to upload his documents, Mr. Sifferlin never submitted the documents to the Commission on MTN Transportation’s behalf; as of the date of this Decision the documents had not been filed with the Commission. Consequently, the documents which would have been marked as Hearing Exhibits 300 and 301 are not part of the record before the Commission.

B. Factual Findings

8. Ms. Riley is responsible for reviewing Commission records and coordinating with other Commission Staff to commence proceedings against motor carriers to suspend and revoke

⁵ See Notice Concerning the Service of Exhibits 1 through 5 for the June 12, 2024 Show Cause Hearing on Respondents (Notice), filed on June 10, 2024.

their permits and authorities when they do not have currently effective proof of insurance or surety coverage on file with the Commission. Ms. Riley assisted with initiating this proceeding against Respondents because the Commission received notice from each of the Respondents' insurance or surety carriers of the imminent cancellation of their insurance or surety coverage.⁶

9. Ms. Riley explained that the Commission served the Complaints and Attachment A to the Complaints upon the Respondents by United States mail on May 17, 2024, at the addresses, and upon the persons identified as designated agents for the Respondents, as provided in the Commission's files.⁷

10. Respondents provided the Commission the addresses and identities of their designated agents that were used to serve the Complaints in this proceeding. The Certificate of Service for the Complaints demonstrates that the Commission served the Respondents by mailing the Complaints addressed as indicated in the "Hearing Cycle Listing."⁸ The referenced Hearing Cycle Listing is Hearing Exhibit 1.⁹ Hearing Exhibit 1 includes those carriers listed in Hearing Exhibit 5, their designated agents and addresses on file with the Commission as of May 17, 2024, and whose insurance or surety faced imminent termination as of that same date.¹⁰

11. Ms. Riley testified that the Complaints against prestige limos LLC (prestige), PUC No. LL-04296 (Case No. 14470-INS); Street kingz Towing LLC (Street kingz), PUC No. T-05576 (Case No. 14494-INS); and Vail 70 Limo LLC (Vail 70), PUC No. LL-03964 (Case No. 14500-INS) were initially returned as undeliverable. The undelivered mail to Vail 70 was of no

⁶ Hearing Exhibits 1-3.

⁷ Hearing Exhibits 1-4.

⁸ Hearing Exhibit 4.

⁹ See Hearing Exhibits 1 and 4.

¹⁰ See *also* Hearing Exhibit 2.

consequence, though, because it came into compliance prior to the hearing and the Complaint against it had been dismissed prior to the hearing. Ms. Riley testified that she found an alternative address for Street kingz, mailed the Complaint and Attachment A to Street kingz at the alternative address, and did not receive back the Complaint mailed to the alternative address as undeliverable. However, the Complaint against prestige, which was also returned as undeliverable, could not be remailed because, Ms. Riley testified, no alternative address could be found for it.

12. On June 10, 2024, Ms. Riley searched Commission records to determine whether any Respondents took other action rendering it unnecessary to revoke their permits, such as coming into compliance with their financial responsibility obligations, cancelling their permits, or initiating a Commission proceeding which may impact this one (*e.g.*, application seeking to suspend a permit). She identified Respondents who came into compliance with their financial responsibility obligations or took other action rendering it unnecessary to revoke their permits after the Complaints were mailed. She created an updated list of Respondents who remained out of compliance with the Commission's financial responsibility requirements as of June 10, 2024. That list is Hearing Exhibit 5.¹¹

13. Ms. Riley testified that on June 10, 2024, Hearing Exhibits 1 through 5 were served on Respondents who remained out of compliance as of that date at their e-mail addresses

¹¹ In contrast, Hearing Exhibit 1 is the list of carriers who were non-compliant when the Commission issued the Complaints on May 17, 2024. As the difference in the number of carriers listed in Hearing Exhibits 1 and 5 makes evident, many carriers came into compliance since the Commission issued the Complaints. All the carriers listed in Hearing Exhibit 5 are listed in Hearing Exhibit 1.

on file with the Commission.¹² She also explained that the Respondents provided those e-mail addresses to the Commission.

14. On the day of the hearing, June 12, 2024, Ms. Riley again reviewed Commission records to determine if any Respondents listed in Hearing Exhibit 5 took action to eliminate the need to revoke their permits. She discovered that seven Respondents had come into compliance and that proof of their respective financial responsibility had been filed with the Commission since she created Hearing Exhibit 5. Those seven entities are:

- a) Arthur Joe Martinez, doing business as Little Stinkers Taxicab Service (Little Stinkers), PUC No. 55607, Case No. 14453-INS;
- b) American Pride Limo Service LLC (American Pride), PUC No. LL-01741, Case No. 14454-INS;
- c) alpine taxi inc., (alpine taxi), PUC Nos. 55899 and LMT-00005, Case Nos. 14437-INS and 14511-INS;
- d) Maria Elena Ponce, doing business as super towing (super towing), PUC No. T-04537, Case No. 14479-INS;
- e) Boulder Trip Service LLC (Boulder Trip), PUC No. LL-01101, Case No. 14477-INS;
- f) American Eagle Limousine Service, Inc. (American Eagle), PUC No. LL-01412, Case No. 14496-INS; and
- g) Colorado's Finest Moving LLC, doing business as Colorado's Finest Moving (Colorado's Finest), PUC No. HHG-00475, Case No. 14435-INS.

Based on this, Ms. Riley requested that the Complaints against Little Stinkers, American Pride, alpine taxi, super towing, Boulder Trip, American Eagle, and Colorado's Finest be dismissed.

15. In addition, Ms. Riley discovered that two other Respondents had their permits canceled or suspended since she printed Hearing Exhibit 5. Those two entities are Havana Towing LLC (Havana Towing), PUC No. T-05593, Case No. 14475-INS, and Mara Ink, PUC

¹² See Notice.

Nos. 55960 and LL-03712, Case Nos. 14499-INS and 14490-INS. Based on this, Ms. Riley requested that the Complaints against Havana Towing and Mara Ink be dismissed, as well.

16. Prior to the hearing, Ms. Riley also researched Commission records to determine whether any Respondent has a pending application or proceeding before the Commission that may affect the instant Proceeding (e.g., an application seeking to transfer, to suspend, or to abandon a certificate or permit). Ms. Riley did not discover any Respondents who have a pending application or proceeding before the Commission.

17. Except as noted above, Ms. Riley asked that the permits and authorities of the remaining Respondents listed in Hearing Exhibit 5 be revoked for failing to meet their financial responsibility obligations.

1. Revelation Limo

18. Consistent with Rule 1201(b)(II) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, Revelation Limo is a closely-held entity solely owned by Mr. Nava. Mr. Nava, a non-attorney, requested that he be permitted to appear on Revelation Limo's behalf because it is a closely-held entity with which he holds a position of authority. Commission Staff did not object to Mr. Nava appearing on Revelation Limo's behalf. Therefore, the ALJ determined that Mr. Nava (a non-attorney) may represent Revelation Limo in this proceeding and allowed Mr. Nava to do so.

19. Revelation Limo owns PUC No. LL-03956. The Complaint against Revelation Limo alleges that it failed to ensure that proof of active liability insurance (Commission Form E) is on file with the Commission in the form and manner required. Mr. Nava stated that Revelation Limo is not operating at this time. Mr. Nava stated that he is

currently working full-time as a cook but intends to resume his limousine services operating as a transportation carrier in late 2024. As shown by Hearing Exhibit 101, Revelation Limo filled out the PUC's Permit Cancellation form on May 20, 2024. Mr. Nava testified that he submitted the form that day. Hearing Exhibit 101 bears the stamp of the PUC's E-Filings System, indicating that the form was filed with the PUC. In addition, Hearing Exhibit 100 establishes that Revelation Limo cancelled its insurance effective April 17, 2024.

20. Mr. Nava cross-examined Ms. Riley and inquired about any additional steps he must take to ensure Revelation Limo's permit is cancelled. Ms. Riley indicated that she would contact Mr. Nava by email to assist him with cancelling the permit.

21. Given that Hearing Exhibit 101 establishes that Revelation Limo has completed and filed with the PUC the Permit Cancellation form requesting that its permit be cancelled, the undersigned ALJ finds that the Complaint against Revelation Limo should be dismissed.

2. T-Bones

22. Consistent with Rule 1201(b)(II), T-Bones is a closely-held entity solely owned by Mr. Ussiglio, who is the owner-operator. Mr. Ussiglio, a non-attorney, requested that he be permitted to appear on T-Bones' behalf because it is a closely-held entity with which he holds a position of authority. Commission Staff did not object to Mr. Ussiglio appearing on T-Bones' behalf. Therefore, the ALJ determined that Mr. Ussiglio (a non-attorney) may represent T-Bones in this proceeding and allowed Mr. Ussiglio to do so.

23. T-Bones owns PUC No. T-05459. The Complaint against T-Bones alleges that it failed to ensure that proof of active cargo insurance (Commission Form H) and liability insurance (Commission Form E) are on file with the Commission in the form and manner

required. Mr. Ussiglio testified that he is in the process of dissolving the partnership that formerly owned T-Bones and switching his insurance carrier from Progressive to Berkshire Hathaway (“Berkshire”). Mr. Ussiglio testified that he signed up with Berkshire on April 17, 2024, and notified Progressive of his intent to cancel the latter policy on April 20, 2024.

24. However, Berkshire has not filed the necessary Forms H and E. Mr. Ussiglio testified that although he has provided evidence of the dissolution to Berkshire, Berkshire informed him that *all* T-Bones’ commercial vehicles must be included on the Berkshire policy before it will file the necessary forms with the PUC. Mr. Ussiglio explained that the dissolution of his former business partnership has complicated this task because three of the vehicles registered with the State of Colorado to T-Bones are no longer in Mr. Ussiglio’s possession. , Mr. Ussiglio testified that his former business partner has not re-registered the three “vehicle assets” the latter took with him with the State, and that the vehicles’ State registrations consequently remain with T-Bones. In order to change the vehicles’ registrations, Mr. Ussiglio’s former business partner must make an appointment with and visit the State’s Department of Motor Vehicles, a process which takes time. Mr. Ussiglio therefore requested that he be granted additional time to perform these tasks and have the necessary forms filed with the Commission.

25. The undersigned ALJ finds and concludes that the complicated circumstances associated with the dissolution of T-Bones former partnership will require additional time to sort out. However, the ALJ is also cognizant of the need to keep the public safe by ensuring that transportation carriers have the proper insurance in place and on file with the Commission. Although the ALJ is sympathetic to T-Bones’ situation, it is also apparent that more than 45 days will transpire from the time of the June 12, 2024 hearing until this Recommended Decision

revoking permits is final. The ALJ believes that 46 days should be a sufficient amount of time for T-Bones to resolve its insurance coverage and dissolution issues.

3. Integrity

26. Consistent with Rule 1201(b)(II), Integrity is a closely-held entity owned by two individuals, Ms. Ridgley and her brother. Ms. Ridgley, a non-attorney who is an owner-operator of Integrity, requested that she be permitted to appear on Integrity's behalf because it is a closely-held entity with which she holds a position of authority. Commission Staff did not object to Ms. Ridgley appearing on Integrity's behalf. Therefore, the ALJ determined that Ms. Ridgley (a non-attorney) may represent Integrity in this proceeding and allowed Ms. Ridgley to do so.

27. Integrity owns PUC No. T-05543. The Complaint against Integrity alleges that it failed to ensure that proof of active liability insurance (Commission Form E) and active cargo insurance (Commission Form H) are on file with the Commission in the form and manner required.

28. Ms. Ridgley testified that Integrity "ran its last call in March," and is planning to close the business for the foreseeable future. Integrity is consequently not currently operating, and although Integrity may resume operations at some point in the future, Ms. Ridgley stated she and her brother do not currently have plans to reopen. Ms. Ridgley testified that Ms. Riley sent her the PUC's Permit Cancellation form and that she (Ms. Ridgley) had already completed it and returned it to the PUC. Once the cancellation is effective, Integrity will no longer be out-of-compliance with the Commission's Rules requiring proof of financial responsibility.

29. As of the date of the hearing, though, the undersigned ALJ finds Integrity still has an active permit with the Commission and has not established that Forms E or H have been filed on Integrity's behalf with the Commission.

4. MTN Transportation

30. Consistent with Rule 1201(b)(II), MTN Transportation is a closely-held entity owned by Mr. Sifferlin and his wife. Mr. Sifferlin, a non-attorney who serves as President and owner-operator of MTN Transportation, requested that he be permitted to appear on MTN Transportation's behalf because it is a closely-held entity with which he holds a position of authority. Commission Staff did not object to Mr. Sifferlin appearing on MTN Transportation's behalf. Therefore, the ALJ determined that Mr. Sifferlin (a non-attorney) may represent MTN Transportation in this proceeding and allowed Mr. Sifferlin to do so.

31. MTN Transportation owns PUC No. LL-01899. The Complaint against MTN Transportation alleges that it failed to ensure that proof of active liability insurance (Commission Form E) is on file with the Commission in the form and manner required. Mr. Sifferlin cross-examined Ms. Riley about the procedures for MTN Transportation to submit proof of insurance with the Commission. Ms. Riley explained that although MTN Transportation may have the certificates of insurance, Commission rules require a transportation carrier's insurer to electronically file proof of insurance. She also explained that any revocation would not be effective until 20 days after issuance of this Recommended Decision.

32. Mr. Sifferlin testified that MTN Transportation had been operating with a 15-passenger bus but had recently purchased a 56-passenger coach bus. However, because MTN Transportation's existing insurer, Progressive, does not write insurance policies for such large

vehicles, MTN Transportation needed to obtain new insurance. Mr. Sifferlin has secured new coverage through Berkshire, but Berkshire had not yet submitted proof of insurance to the Commission. Mr. Sifferlin further explained that Berkshire had delayed filing Form E because of confusion stemming from Mr. Sifferlin's ownership of another company in addition to MTN Transportation. Mr. Sifferlin expressed hope that the matter would be resolved quickly but apprehension that it would not be resolved before the issuance of the Recommended Decision.

33. Although the ALJ understands and is sympathetic to MTN Transportation's situation, the ALJ believes that the more than 45 days from the date of the hearing until this Recommended Decision becomes a final decision of the Commission should be sufficient time for Mr. Sifferlin to resolve the outstanding issue with Berkshire and ensure Berkshire has filed the necessary proof of insurance forms with the Commission. The ALJ therefore finds and concludes that as of the date of the hearing, MTN Transportation has not established that Form E has been filed on its behalf with the Commission.

5. Pantusa Towing

34. Consistent with Rule 1201(b)(II), Pantusa Towing is a closely-held entity owned by two individuals, Brian and Dorian Pantusa. Mr. Carbajal, a non-attorney who is the General Manager for Pantusa Towing, requested that he be permitted to appear on Pantusa Towing's behalf because he holds a position of authority within a closely-held entity. Commission Staff did not object to Mr. Carbajal appearing on Pantusa Towing's behalf. Therefore, the ALJ determined that Mr. Carbajal (a non-attorney) may represent Pantusa Towing in this proceeding and allowed Mr. Carbajal to do so.

35. Pantusa Towing owns PUC No. T-05426. The Complaint against Pantusa Towing alleges that it failed to ensure that proof of active liability insurance (Commission Form E) is on file with the Commission in the form and manner required. Mr. Carbajal testified that Pantusa Towing's former insurance policy had expired, it had obtained new insurance effective June 17, 2024. Hearing Exhibit 200 is a copy of Pantusa Towing's certificate of insurance showing coverage effective from June 17, 2023, to June 17, 2024. Mr. Carbajal testified that Pantusa Towing had secured new insurance effective June 17, 2024, but was unsure why the new insurer had not yet filed proof of insurance with the Commission. Thus, Mr. Carbajal conceded that, as of the date of the hearing, Pantusa Towing did not have the requisite proof of insurance form on file with the Commission. The undersigned ALJ therefore finds that, as of the date of the hearing, Pantusa Towing has not established that Form E has been filed on its behalf with the Commission.

C. Applicable Law.

1. Financial Responsibility Requirements and the Commission's Authority to Revoke Permits and Authorities.

36. Generally, motor carriers holding a Commission permit, authority, or certificate must maintain and file evidence of financial responsibility with the Commission in such sum, for such protection, and in such form as the Commission deems necessary to adequately safeguard the public interest.¹³ Motor carriers must ensure their insurance or surety coverage is kept continuously effective during the life of a certificate or permit to operate.¹⁴ Commission Rule 6008, 4 CCR 723-6 of the Rules Regulating Transportation by Motor Vehicle, identifies the

¹³ § 40-10.1-107(1), C.R.S.; Rule 6008 of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6.

¹⁴ § 40-10.1-107(3), C.R.S.

amount, type of protection, and form for the insurance or surety coverage that motor carriers must maintain at all times in order to safeguard the public interest.

37. Specifically, motor carriers must obtain and keep motor vehicle liability insurance or surety bond coverage in force at all times.¹⁵ In addition to motor vehicle liability coverage, towing carriers and household goods movers must maintain and keep cargo liability insurance or surety bond coverage in force at all times.¹⁶ Towing carriers must obtain and keep workers' compensation insurance in force at all times; and towing carriers providing storage must obtain and keep garage keeper's liability insurance in force at all times.¹⁷ In addition to motor vehicle liability and cargo liability coverage, household goods movers must obtain and keep general liability insurance or surety coverage in force at all times.¹⁸

38. Motor carriers are responsible for maintaining and filing evidence of the required financial responsibility coverage with the Commission.¹⁹ They must ensure their insurance or surety coverage is kept continuously effective during the life of a certificate or permit to operate.²⁰ Insurers and sureties must notify the policy or bond holder *and* the Commission when terminating a policy or bond at least 30 days before the effective date of termination; failing that, termination is not valid.²¹ As a result, the Commission regularly receives notice from insurance or surety carriers about imminent policy or bond terminations for motor carriers licensed by the Commission.²²

¹⁵ Rule 6008(a)(I), 4 CCR 723-6.

¹⁶ Rule 6008(a)(I) and (III), 4 CCR 723-6.

¹⁷ Rule 6008(a)(IV) and (V), 4 CCR 723-6.

¹⁸ Rule 6008(a)(VI), 4 CCR 723-6.

¹⁹ § 40-10.1-107(1), C.R.S., and Rule 6008(a), 4 CCR 723-6.

²⁰ § 40-10.1-107(3), C.R.S.

²¹ § 40-10.1-107(4), C.R.S.

²² *Id.*

39. Notice of cancellation from a motor carrier's insurance or surety carrier is evidence that the motor carrier no longer has proof of financial responsibility on file with the Commission.²³ Failure to have proof of current and effective insurance or surety coverage on file with the Commission creates a rebuttable presumption that the carrier is in violation of the financial responsibility requirements.²⁴

40. Section 40-10.1-112(1)(a) and (c), C.R.S., provides that a Commission-issued authority or permit may be suspended, revoked, altered, or amended if it is established to the satisfaction of the Commission at a properly-noticed hearing that the holder of that authority or permit has violated Article 10.1, Title 40 of the Colorado Revised Statutes, or any applicable Commission rule. Rules 6009 and 6011, 4 CCR 723-6, also provide the Commission authority to revoke a permit or authority in the circumstances here.

2. Notice and Service Requirements

41. The Commission must provide Respondents with notice of the Complaints against them, including sufficient facts to adequately advise Respondents of the relief sought and how they are alleged to have violated the law, as well as the time affixed for a hearing on the Complaints.²⁵ Such notice must be served upon the Respondents, which may be accomplished by mail.²⁶

42. Regulated motor carriers must provide the Commission "its designation of the name, mailing address, and physical address of a Person upon whom service may be made of any

²³ Rule 6008(e), 4 CCR 723-6.

²⁴ *Id.*

²⁵ §§ 40-10.1-112(1) and 40-6-108, C.R.S.; Rule 1302(h), 4 CCR 723-1, of the Commission's Rules of Practice and Procedure; *see also* § 24-4-105(2), C.R.S.

²⁶ § 40-6-108(3), C.R.S.; Rule 1205(a) and (d), 4 CCR 723-1; *see also* § 24-4-104(10), C.R.S.

lawful notice, order, process, or demand.”²⁷ That person is the motor carrier’s designated agent upon whom the Commission may serve complaints and other notices.²⁸ Additionally, regulated motor carriers are responsible for updating the Commission on changes to their designated agent, including the agent’s mailing and email addresses, within two days of the change.²⁹ Service on a motor carrier’s designated agent on file with the Commission is service upon the carrier and is “prima facie evidence” that the carrier received notice.³⁰ A certificate of service issued by the Commission’s Director is *prima facie* evidence that service has been obtained.³¹

43. In addition, Commission Rule 1205(a), 4 CCR 723-1, requires that a person filing any pleading or other document with the Commission must serve all other parties; the same rule allows parties to serve pleadings and documents by e-mail.

3. Burden of Proof

44. Staff carries the burden of proof by a preponderance of the evidence to demonstrate that the allegations in the Complaints are true and that the Complaints were properly served on each of the Respondents.³² The preponderance standard requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence.³³ A party has met this burden of proof when the evidence, on the whole, tips in favor of that party.³⁴

²⁷ Rule 6006(a), 4 CCR 723-6.

²⁸ *Id.*; Rule 1205(a) and (d), 4 CCR 723-1.

²⁹ Rule 6006(b), 4 CCR 723-6.

³⁰ Rule 6006(c) and (d), 4 CCR 723-6.

³¹ § 40-6-108(3), C.R.S.

³² § 24-4-105(7), C.R.S.; Rule 1500, 4 CCR 723-1.

³³ *Swain v. Colorado Dep’t of Revenue*, 717 P.2d 507, 508 (Colo. App. 1985).

³⁴ *Schocke v. State Dep’t of Revenue*, 719 P.2d 361, 363 (Colo. App. 1986).

D. Findings, Analysis, and Conclusions

45. The ALJ concludes that Staff demonstrated by a preponderance of the evidence that it properly served the Complaints and Attachment A thereto upon each of the Respondents listed in Hearing Exhibit 5 by mailing them to the designated agents and addresses on file with the Commission for each of the Respondents.³⁵

46. The ALJ finds that although the Complaint against prestige was returned as undeliverable and could not be re-sent because no other address could be found for prestige, prestige is required to maintain a current address for its designated agent with the Commission and ensure that address information is kept up to date with the Commission. The Complaint to prestige was sent to the address on file with the Commission. Even though the Complaint was returned, the ALJ finds and concludes that service on prestige was effective because it was mailed to the address prestige had on file with the Commission.

47. The ALJ finds that the Complaints and Attachment A thereto comply with the relevant notice requirements because they: (a) inform Respondents that the Commission has received insurance or surety cancellation notices for each Respondent and the effective date of such cancellation; (b) advise Respondents that their authorities or permits are summarily suspended as of the coverage cancellation date; (c) notify Respondents that they may not conduct operations under their authorities or permits after the coverage cancellation and summary suspension date; (d) inform Respondents that the Commission has initiated a proceeding to permanently revoke their permits or authorities for failing to maintain and provide proof of effective insurance or surety coverage; (e) notify Respondents of the date, time, and means to

³⁵ Hearing Exhibits 1 through 5; § 40-6-108(3), C.R.S.; Rules 1205(a) and (d) and 1302(g)(II)(e), 4 CCR 723-1; and Rule 6006(a) and (c), 4 CCR 723-6.

attend the remote hearing on the Complaints at which Respondents have an opportunity to present data, views, and arguments; and (f) advise Respondents of the legal authority for the Complaints and relief sought.³⁶

48. In addition, the ALJ concludes that on June 10, 2024, Staff served Hearing Exhibits 1 to 5 on Respondents listed in Hearing Exhibit 5 at the e-mail addresses which Respondents provided. As such, Respondents had the opportunity to review those exhibits before and during the hearing.³⁷

49. The ALJ finds that Staff established by a preponderance of the evidence that the Commission received notice from the insurance or surety providers for the motor carriers identified in Hearing Exhibit 5 that their insurance or surety coverage was or will be cancelled or terminated.³⁸ This creates the rebuttable presumption that the Respondent carriers listed in Hearing Exhibit 5 are in violation of their respective financial responsibility requirements.³⁹ Except for the ten carriers identified in paragraphs 50 through 52 below, no evidence rebutted that presumption.

50. The ALJ finds that the preponderance of the evidence establishes that Revelation Limo is in compliance with its financial responsibility obligations. As such, the Complaint against it (Case No. 13786-INS) will be dismissed.

³⁶ Hearing Exhibits 1, 2, and 4; Rule 6009(e), 4 CCR 723-6; *see* §§ 40-6-108 and 24-4-105(2), C.R.S.

³⁷ *See* Rule 1205(a), 4 CCR 723-1; *see* Notice and Exhibit A to Notice; Hearing Exhibit 5. Exhibits were displayed on the video-conference screen during the hearing and were available to download during the hearing.

³⁸ Hearing Exhibit 2.

³⁹ Rule 6008(e), 4 CCR 723-6.

51. The ALJ further finds that because the following seven carriers have likewise come into compliance with their financial responsibility obligations, the Complaints against them will also be dismissed:

- a) Little Stinkers, PUC No. 55607, Case No. 14453-INS;
- b) American Pride, PUC No. LL-01741, Case No. 14454-INS;
- c) alpine taxi, PUC Nos. 55899 and LMT-00005, Case Nos. 14437-INS and 14511-INS;
- d) super towing, PUC No. T-04537, Case No. 14479-INS;
- e) Boulder Trip, PUC No. LL-01101, Case No. 14477-INS;
- f) American Eagle, PUC No. LL-01412, Case No. 14496-INS; and
- g) Colorado's Finest, PUC No. HHG-00475, Case No. 14435-INS.

52. In addition, the Complaints against the two carriers whose permits had been suspended or cancelled — Havana Towing, PUC No. T-05593, Case No. 14475-INS; and Mara Ink, PUC Nos. 55960 and LL-03712, Case Nos. 14499-INS and 14490-INS — will also be dismissed.

53. The ALJ further finds that although the following representatives of the remaining four Respondents who appeared at the hearing all indicated, to varying degrees, that they are working to ensure their respective businesses have the requisite liability insurance coverage in effect, the necessary insurance coverages were not in effect as of the date of the hearing:

- Mr. Ussiglio for T-Bones;
- Ms. Ridgley for Integrity;
- Mr. Sifferlin for MTN Transportation; and,
- Mr. Carbajal for Pantusa Towing.

Moreover, proof of full financial responsibility for the four entities these individuals represent had not been filed with the PUC as of the date of the hearing.

- T-Bones, PUC No. T-05459, Case No. 14460-INS;
- Integrity, PUC No. T-05543, Case No. 14515-INS;
- MTN Transportation, PUC No. LL-01899, Case No. 14451-INS; and,
- Pantusa Towing, PUC No. T-05426, Case No. 14482-INS.

The ALJ therefore finds that none of these four entities, all of whom appeared at the hearing, are in compliance with Commission Rule 6008, 4 CCR 723-6.

54. Except as noted above, the preponderance of the evidence established that the Respondents listed in Hearing Exhibit 5 are out of compliance with their respective financial responsibility requirements per § 40-10.1-107(3), C.R.S., and Rule 6008, 4 CCR 723-6 as of the time of the hearing. The ALJ finds that Staff established by a preponderance of the evidence that the Commission's records do not show a currently effective level of financial responsibility in such form and in such manner as required by § 40-10.1-107, C.R.S., and Rule 6008, 4 CCR 723-6, as noted in the Complaints against each Respondent listed in Hearing Exhibit 5. Finally, the ALJ concludes that Staff met its burden of proof to show by a preponderance of the evidence that, except as otherwise noted, the allegations in the Complaints against Respondents listed in Hearing Exhibit 5⁴⁰ are true.

55. The Commission's only means of performing its important duty to the public to ensure that persons who hold an active motor carrier authority meet their financial responsibility obligations is to require documentation of the carriers' current and effective insurance or surety furnished in a uniform format to the Commission. The holder of the authority is responsible for ensuring that documentation is provided to the Commission. § 40-10.1-107, C.R.S., and Rule 6008, 4 CCR 723-6. Except as otherwise noted, the Respondents listed in Hearing Exhibit 5 have failed to do so. This failure warrants revocation of their permits or authorities.

56. Respondents may take action before the effective date of this Decision to avoid revocation. First, carriers may avoid revocation by: (a) obtaining insurance or surety coverage as required by Rule 6008, 4 CCR 723-6; and (b) causing proof of that insurance to be filed with the Commission in the form and manner required by Rule 6008, 4 CCR 723-6. The Complaints against carriers who take this action before the effective date of this Decision will be dismissed, and their permits will not be revoked.

57. In addition, limited regulation carriers,⁴¹ luxury limousine carriers, household goods movers, towing carriers, and hazardous materials carriers who submit a form to cancel their permits or authorities before the effective date of this Decision may avoid revocation of their permits. The Complaints against carriers who take this action before the effective date of this Decision will be dismissed, and their permits will not be revoked. Permit cancellation forms are available on the Commission's website at:

https://drive.google.com/file/d/0B3u7jb_duOQ2QWlrMFlvUDJoNjQ/view?.authuser=0.

58. Fully regulated intrastate carriers, including common carriers operating a shuttle service, sightseeing service, charter service, taxicab service, and contract carriers who submit an application to suspend their authority under Rule 6205, 4 CCR 723-6, before the effective date of this Recommended Decision, may also avoid revocation of their permits. The Complaints against carriers who take this action before the effective date of this Decision will be dismissed, and their permits will not be revoked. Applications to suspend a common carrier authority are available at:

https://drive.google.com/file/d/0B3u7jb_duOQ2dXZ0UTNlXzBvRIU/view.

⁴⁰ Hearing Exhibit 5 is attached to this Recommended Decision as Appendix A.

And applications to suspend a contract carrier authority are available at:

https://drive.google.com/file/d/0B3u7jb_duOQ2U2JQS2dvek5HWm8/view.

59. Having a permit revoked, cancelled, or suspended does not always mean that a carrier's business is permanently terminated. Generally, Commission rules allow many types of motor carriers, including luxury limousine, household goods movers, and towing carriers, to obtain new permits without difficulty by filing an application.⁴² For the most part, such permits may be obtained by completing an application that can be submitted to the Commission online, providing related supporting information and proof of financial responsibility, and paying a fee.⁴³

60. Applications for luxury limousine, towing, or household goods mover permits are available at the following link: <https://doraapps.state.co.us/puc/TransportationApplications/>. Referenced carrier types who voluntarily cancel their permits or whose permits are revoked may reapply for a permit.

61. As provided below, this Recommended Decision will not become effective for 20 days after the date the Decision is mailed. This allows ample time for Respondents to take action to avoid a final Commission decision revoking their permits or authorities.

⁴¹ Limited regulation carriers are defined as carriers who provide transportation service by charter bus, children's activity bus, fire crew transport, luxury limousine, Medicaid client transport, or off-road scenic charter. Rule 6001(qq), 4 CCR 723-6.

⁴² While the ALJ does not warrant or otherwise guarantee this outcome, it is her understanding that carriers may request that a prior permit number be reinstated as part of the carrier's application for a permit.

⁴³ Rule 6302 (luxury limousine application and permit); Rule 6503 (towing carrier application and permit); and Rule 6603 (household goods mover carrier application and permit). Carriers concerned about their ability to comply with application requirements may request that the Commission waive an application requirement, per Rule 1003(a), 4 CCR 723-1. That rule allows parties to request a waiver of a Commission rule; in deciding whether to waive a rule, the Commission may consider hardship, equity, or more effective implementation of a rule on an individual basis. 4 CCR 723-1. Such requests are decided on an individual and case-by-case basis and are outside the scope of this proceeding. See Rule 1003(a), 4 CCR 723-1.

62. Pursuant to § 40-6-109, C.R.S., the ALJ transmits the record of this proceeding, this recommended decision containing findings of fact and conclusions thereon, and a recommended order to the Commission.

III. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, the Complaints against the following Respondents are dismissed:

- a) Revelation Limo, LLC (Revelation Limo), PUC No. LL-03956, Case No. 14483-INS;
- b) Arthur Joe Martinez, doing business as Little Stinkers Taxicab Service (Little Stinkers), PUC No. 55607, Case No. 14453-INS;
- c) American Pride Limo Service LLC (American Pride), PUC No. LL-01741, Case No. 14454-INS;
- d) alpine taxi inc., (alpine taxi), PUC Nos. 55899 and LMT-00005, Case Nos. 14437-INS and 14511-INS;
- e) Maria Elena Ponce, doing business as super towing (super towing), PUC No. T-04537, Case No. 14479-INS;
- f) Boulder Trip Service LLC (Boulder Trip), PUC No. LL-01101, Case No. 14477-INS;
- g) American Eagle Limousine Service, Inc. (American Eagle), PUC No. LL-01412, Case No. 14496-INS; and
- h) Colorado's Finest Moving LLC, doing business as Colorado's Finest Moving (Colorado's Finest), PUC No. HHG-00475, Case No. 14435-INS.
- i) Havana Towing LLC (Havana Towing), PUC No. T-05593, Case No. 14475-INS; and,
- j) Mara Ink, PUC Nos. 55960 and LL-03712, Case Nos. 14499-INS and 14490-INS.

2. Except as noted above, the authorities and permits listed in Appendix A, attached hereto, are revoked as of the effective date of this Recommended Decision.

3. Ordering Paragraph No. 2 will be void and the Complaint dismissed as to any Respondent who takes one of the following actions before the effective date of this Recommended Decision:

- a) files the required Certificate of Insurance or surety with the Commission;
- b) files an Application to Suspend their permit or authority with the Commission, if allowed by Commission rules; or
- c) submits a permit cancellation form to the Commission, if allowed by Commission rules.

4. Proceeding No. 24C-0215-INS is closed.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision will be served upon the parties, who may file exceptions to it.

- a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, this Recommended Decision will become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Recommended Decision are filed, they may not exceed 30 pages in length, unless the Commission finds good cause and permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director