

Decision No. R24-0578

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0052TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

TOW-PROS LLC,

RESPONDENT.

**RECOMMENDED DECISION
GRANTING JOINT MOTION FOR APPROVAL OF
SETTLEMENT AGREEMENT**

Issued Date: August 14 ,2024

I. STATEMENT

1. This proceeding concerns Civil Penalty Assessment Notice (“CPAN”) No. 137427 issued by Commission Staff (“Staff”) on January 31, 2024, against Respondent Tow-Pros, LLC (“Respondent” or “Tow-Pros”). The CPAN assessed Tow-Pros a total penalty of \$4,111.25 for two violations of Rule 6509(a)(IV), and one violation of Rule 6509(a)(IX), Rule 6509(a)(X), Rule 6509(a)(VII), Rule 6509(a)(I), and Rule 6509(a)(VII) 4 *Code of Colorado Regulations* (“CCR”) 723-6, as more specifically listed in the CPAN.

2. The CPAN was personally served on January 31, 2024. A representative of Tow-Pros signed the CPAN acknowledging receipt on January 31, 2024.

3. On April 12, 2024, Trial Staff of the Commission (“Staff”) filed its Notice of Intervention as of Right and Entry of Appearance in this proceeding.

4. On April 24, 2024, the Commission referred this proceeding to an Administrative Law Judge by minute entry.

5. On May 28, 2024, by Decision No. R24-0355-I, a remote hearing was scheduled in the above captioned proceeding for July 16, 2024.

6. On June 28, 2024, Staff filed its Motion to Amend Procedural Schedule and Waive Response Time (“Motion to Amend Schedule”).

7. On July 3, 2024, by Decision No. R24-0475-I, the Motion to Amend Schedule was granted, and the evidentiary hearing was rescheduled for July 30, 2024.

8. On July 16, 2024, Staff filed its Motion to Amend CPAN And Shorten Response Time.

9. On July 22, 2024, by Decision No. R24-0521-I, the Motion to Amend CPAN was granted.

10. On July 26, 2024, Staff filed its Unopposed Motion to Vacate Evidentiary Hearing and Waive Response Time (“Unopposed Motion to Vacate”).

11. On July 30, 2024, by Decision No. R24-0546-I the Unopposed Motion to Vacate was granted.

12. On August 7, 2024, Staff filed its Joint Motion for Approval of the Settlement Agreement and Waiver of Response Time. Attached to the Motion as Attachment A was the Comprehensive Settlement Agreement (“Settlement Agreement.”)

II. SETTLEMENT AGREEMENT

13. According to the terms of the Settlement Agreement, Staff and Respondent agree to the following:

- a) Respondent admits to violations of Commission Rules 6509(a)(I), (IV), (VI), (VII), (VIII), (IX), and (X) as set forth in CPAN No. 137427, as amended.
- b) In consideration of Respondent's admission of liability, the Settling Parties agree that Respondent will pay a reduced amount of \$3,083.44. This \$3,083.44 settlement amount consists of a \$2,620.92 civil penalty plus a 15 percent surcharge of \$462.52 pursuant to § 24-34-108, C.R.S.
- c) The Settling Parties further agree that Respondent will refund Daniel Byrne the amount of \$300.00.
- d) Respondent shall pay the amounts required under this Settlement Agreement within 30 days of the Commission's final order approving this Agreement.
- e) If Respondent fails to timely make the payments required under this Settlement Agreement, Respondent shall be liable for the full penalty amount of \$4,111.25 plus the full refund amount of \$300 less any payments made, which shall be due immediately.

14. The Settling Parties produced this Settlement Agreement in accordance with Rule 408 of the Colorado Rules of Evidence. Nothing in this Settlement Agreement shall constitute a waiver by any Settling Party with respect to any matter not specifically addressed in this Settlement Agreement.

15. The Settlement Agreement does not constitute agreement, by any Settling Party, that any principle or methodology contained within or used to reach the Settlement Agreement may be applied to any situation other than this proceeding.

16. The Settlement Agreement shall not become effective until the Commission issues a final decision addressing the Settlement Agreement.

III. FINDINGS AND CONCLUSION

17. The undersigned ALJ finds good cause to approve the Settlement Agreement. It is found that the civil penalty of \$3,083.44 (\$2,620.92 civil penalty plus a 15 percent surcharge of \$462.52) and refunding \$300 to Daniel Byrne is sufficient to motivate the Respondent to avoid any further violations of Commission regulations.

18. The ALJ finds it is in the public interest to conserve valuable resources by adopting the terms of the Settlement Agreement and avoiding a hearing in this matter.

19. Pursuant to the terms of the Settlement Agreement entered between Respondent and Staff, Respondent is assessed a civil penalty of \$3,083.44 (\$2,620.92 civil penalty plus a 15 percent surcharge of \$462.52) payable according to the terms of the Settlement Agreement as delineated above. The Respondent shall also refund \$300.00 to Daniel Byrne.

20. In accordance with § 40-6-109, C.R.S. it is recommended that the Commission enter the following order.

IV. ORDER

A. It is Ordered That:

1. The Joint Motion for Approval of the Settlement Agreement filed on August 7, 2024, is granted.

2. The Settlement Agreement entered between Transportation Staff of the Commission and Tow-Pros, LLC, is approved.

3. A reduced Civil Penalty Assessment of \$3,083.44 (\$2,620.92 civil penalty plus a 15 percent surcharge of \$462.52) is assessed against Tow-Pros, LLC, pursuant to the terms of the Settlement Agreement as detailed above and attached to this Decision as Appendix A.

4. Tow-Pros, LLC shall also refund \$300.00 to Daniel Byrne pursuant to the terms of the Settlement Agreement as detailed above and attached to this Decision as Appendix A.

5. Proceeding No. 24G-0052TO is closed.

6. 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.

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

8. 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, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

9. 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.

10. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director