

Decision No. R24-0757-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0179TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

KLAUS' TOWING LLC DOING BUSINESS AS KLAUS' TOWING, INC.,

RESPONDENT.

**INTERIM DECISION
GRANTING TENTATIVE APPROVAL OF SETTLEMENT
AGREEMENT AND VACATING HEARING**

Issued Date: October 18 ,2024

I. STATEMENT

1. This proceeding concerns Civil Penalty Assessment Notice ("CPAN") No.135862 issued by Commission Staff on April 18, 2024, against Respondent Klaus Towing LLC doing business as Klaus Towing Inc. ("Respondent" or "Klaus"). The CPAN assessed Klaus a total penalty of \$383,297.50 for 368 violations of rules contained in 4 *Code of Colorado Regulations* (CCR) 723-6, and more specifically listed in the CPAN.

2. The CPAN was personally served on April 18, 2024.

3. On May 8, 2024, Trial Staff of the Commission ("Staff") filed its Notice of Intervention as of Right and Entry of Appearance in this proceeding.

4. On May 22, 2024, the Commission referred this proceeding to an Administrative Law Judge ("ALJ") by minute entry.

5. On June 5, 2024, by Decision No. R24-0387-1, a prehearing conference was scheduled for July 9, 2024.

6. On July 10, 2024, by Decision No. R24-0495-I the matter was set for an evidentiary hearing.

7. On September 19, 2024, the Parties filed their Joint Motion to Approve Settlement Agreement, Vacate the Evidentiary Hearing and Upcoming Procedural Deadlines.

II. SETTLEMENT AGREEMENT

8. The basic terms of the Settlement Agreement are that the Respondent admits to:

- i. All 72 violations of C.R.S. § 40-10.1-405(3)(a);
- ii. All 14 violations of C.R.S. § 40-10.1-405(2)(a)(I); and
- iii. All 62 violations of Rule 6508(b)(III)(B).

9. Respondent states it committed a general violation of Rule 6007 by improperly acquiring and documenting the 72 towing authorizations at issue in this proceeding.

10. Respondent agrees to the following calculation of civil penalties:

- a. For C.R.S. § 40.10.1-405(3)(a): **\$22,770** = 72 x \$316.25
- b. For C.R.S. § 40-10.1-405(2)(a)(I): **\$4,427.50** = 14 x \$316.25
- c. For Rule 6508(b)(III)(B): **\$39,215** = 62 x \$632.50¹ = \$39,215
- d. For Rule 6007: **\$88,550** = 70 x \$1,265

The sum of these four civil penalties is as follows: $\$154,962.50 = \$22,770 + \$4,427.50 + \$39,215 + \$88,500$.

11. To achieve resolution of this proceeding, Respondent agrees to pay 65 percent of this amount, which equals \$100,725.63.

12. Of the 72 tows associated with the CPAN, the Settling Parties agree Respondent already paid \$6,333.96 to refund towing fees and charges for 21 of them.

13. Respondent shall pay the remaining 51 unrefunded towing fees and charges totaling \$16,878.82 by delivering refund checks via certified mail return receipt to the person who paid the towing fees and charges.

14. Towing fees and charges refunded (*i.e.*, via cashing a check) shall result in a reduction of the \$100,725.63 civil penalty if these checks are cashed on/before November 29, 2024, and Respondent shall provide evidence of same to Trial Staff.

15. Respondent shall pay $\$83,846.81 = (\$100,725.63 - \$16,878.82)$ within seven calendar days of a final Commission decision in this proceeding or October 31, 2024, whichever is later.

16. Respondent shall pay an additional amount equal to the total unrefunded towing fees and charges as of November 29, 2024 (*i.e.*, the sum of refund checks not cashed on or before November 29, 2024) on or before December 6, 2024.

III. DISCUSSION

17. At the outset, the undersigned ALJ would like to commend the Parties on reaching a settlement in the above captioned proceeding. With the number of alleged charges, it is good to see the Parties working successfully to reach a resolution.

18. While this settlement is specific in what violations the Respondent is admitting to having committed and the effect the Settlement Agreement will have on its permit, the amount of the civil penalty is not specific.

19. Under the terms of the Settlement Agreement the amount of the civil penalty assessment could be anywhere from \$94,391.67¹ to \$83,846.81.

20. For the settlement to be accepted, the civil penalty and surcharge assessed must be a certain number. The Settlement Agreement currently fails to provide a final determination on the amount of the civil penalty assessment.

21. The undersigned finds that the terms of the Settlement Agreement are acceptable, but it cannot be approved until a final determination is made on the civil penalty amount.

22. Consistent with the Settlement Agreement, Respondent shall have until November 29, 2024, to refund towing fees and charges related to the violations in CPAN No. 140630. On or before December 6, 2024, Respondent will provide Staff documentation showing the amount of refunded towing fees and charges.

23. The Parties shall file an amendment to the Settlement Agreement by December 13, 2024, with the amount of the agreed upon civil penalty after all refunds have been subtracted from the agreed upon civil penalty of \$100,725.63.

24. The Settlement Agreement is tentatively accepted and evidentiary hearing vacated dependent on the Parties filing an amendment to the settlement agreement by December 13, 2024, stating the total amount of the civil penalty.

25. If the Parties fail to make the required filings by the dates listed, the matter shall be rescheduled for an evidentiary hearing.

¹ \$100,725.63 - \$6,333.96 (the amount already refunded).

IV. ORDER

A. It is Ordered That:

1. The Joint Motion for Approval of the Settlement Agreement filed on September 19, 2024, is tentatively approved consistent with the discussion above.
2. The evidentiary hearing scheduled from November 4, 2024, through November 12, 2024, is vacated.
3. The Parties shall be held to the advisements in this Decision.
4. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

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

Rebecca E. White,
Director