

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Docket No. 03G-136CP
Civil Penalty Assessment Notice No. 28066

RECEIVED
STATE OF COLORADO
PUBLIC UTILITIES COMM.
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PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

DARREL G. SEGERS d/b/a STAR TAXI & ASSOCIATES, a/k/a DESIGNATED DRIVERS,

Respondent.

STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission of the State of Colorado (Staff) and Darrel G. Segers d/b/a Star Taxi & Associates, a/k/a Designated Drivers (Respondent) (Staff and Respondent shall be referred to collectively as Parties), enter into this Stipulation and Settlement Agreement (Stipulation) to stipulate and settle all disputed issues arising out of Civil Penalty Assessment Notice No. 28066 (CPAN No. 28066). Staff and Respondent respectfully submit that this Stipulation is just and reasonable. The Parties believe that this Stipulation is justified on its face and, therefore, the Public Utilities Commission of the State of Colorado (Commission) should approve it without hearing.

Darrel G. Segers, acting *pro se*, states that he has the authority to execute this Stipulation on behalf of Respondent. Staff states that the undersigned member of Staff has the authority to execute this Stipulation on behalf of Staff.

I. BACKGROUND

1. On March 27, 2003 Staff issued CPAN No. 28066 to Respondent. A copy of CPAN No. 28066 is attached to this Stipulation as Exhibit A and is incorporated herein by reference. CPAN No. 28066 cites Respondent for five (5) violations of § 40-10-104(1), C.R.S., which provides in pertinent part: "No motor vehicle carrier shall operate any motor vehicle for the transportation of persons upon the public highways of this state in intrastate commerce without first having obtained from the Commission a certificate declaring that the present or future public convenience and necessity requires or will require such operation."

2. The alleged violations occurred on February 15, 2003; February 19, 2003; February 27, 2003; February 28, 2003; and March 23, 2003. Commission Rule 4 CCR 723-31-40.4.1 allows for a penalty of up to four hundred dollars (\$400.00) per violation of C.R.S. § 40-10-104(1). Staff sought the maximum penalty in this Docket for five (5) violations, or two thousand dollars (\$2,000.00).

3. Respondent admits that on each of the dates appearing on CPAN No. 28066, Respondent operated a motor vehicle for the transportation of persons upon the public roads of Colorado in intrastate commerce without first obtaining a Certificate of Public Convenience and Necessity (CPCN) or any other authority from the Commission.

4. On March 5, 2003 Respondent filed its Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application) pursuant to C.R.S. § 40-10-104(1). The Commission assigned Docket No. 03A-108CP to Respondent's Application and set it for hearing on July 15-16, 2003.

II. STIPULATION

5. The Parties agree that this Stipulation resolves all of the issues that were or could have been raised in this matter. In general terms, Staff is accepting reduced payment in satisfaction of the assessed civil penalty in response to measures undertaken by Respondent to ensure compliance with the requirement of having obtained a CPCN from the Commission prior to operating a motor vehicle for the transportation of persons upon the public roads of Colorado in intrastate commerce.

6. Staff is willing to accept a reduced payment of one thousand dollars (\$1,000.00) for the civil penalty assessed by CPAN No. 28066.

7. Staff's acceptance of a reduced penalty of one thousand dollars (\$1,000.00) is appropriate in light of the measures undertaken by Respondent to ensure future compliance with the requirement of § 40-10-104(1), C.R.S.

8. Respondent shall remit to the Commission the amount of one thousand dollars (\$1,000.00) in satisfaction of CPAN No. 28066. Respondent shall remit the one thousand dollars (\$1,000.00) in not more than four (4) equal monthly payments of at least two hundred fifty dollars (\$250.00) each, to be paid as follows:

a. The first payment shall be due and payable ten (10) days after the final Commission decision in this Docket.

b. The second payment shall be due and payable thirty (30) days after the date of the first payment.

c. The third payment shall be due and payable sixty (60) days after the date of the first payment.

d. The fourth and final payment shall be due and payable ninety (90) days after the date of the first payment.

e. Respondent may prepay any amount of the total without penalty.

9. Respondent agrees that if Respondent fails to comply with the provisions of Paragraph 8 of this Stipulation, then (a) the admission of liability as stated above shall be conclusive evidence that the violation occurred and that the fine assessed is justified, and (b) the full \$2,000.00 penalty assessed by CPAN No. 28066 shall immediately be due and payable.

III. GENERAL PROVISIONS

10. The Parties agree that this Stipulation should be approved in its entirety.

11. The Parties agree that reaching this agreement by means of negotiation and settlement rather than through litigation is in the public interest and that the results of the compromises and settlements reflected in this Stipulation are in the public interest. The Parties further agree that all matters that were raised or could have been raised in this Docket have been resolved by this Stipulation. This resolution depends upon Respondent fully complying the terms set forth in Section II above.

12. This Stipulation has been entered into between the Parties solely for the purpose of settlement and resolution of the issues in this Docket. Therefore, the issues and matters resolved by this Stipulation apply only to this Docket and the issues raised in this Docket. Except as otherwise provided, the Parties reserve the right in the future to advocate

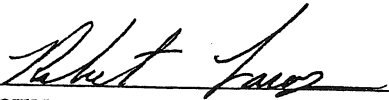
positions different from those stated in this Stipulation. Nothing in this Stipulation shall constitute a waiver by any party with respect to any matter not specifically addressed.

13. If the Commission does not approve this Stipulation in its entirety, this Stipulation shall be null and void. If the Commission imposes conditions or modifications to its approval of this Stipulation which are unacceptable to a party, such party shall notify the other party within five (5) days after the date the Commission's decision becomes final, which shall be effective notice to render this Stipulation null and void. In that event, this matter shall be set for hearing.

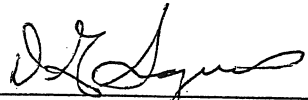
14. The Stipulation may be executed in counterparts and by facsimile copies of signatures, all of which when taken together shall constitute the entire Stipulation.

DATED this 16TH day of July 2003.

**For Staff of the Colorado Public Utilities
Commission:**

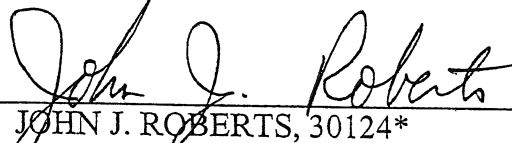
By: 
Robert Laws
Compliance Investigator III
Public Utilities Commission
1580 Logan Street, OL-1
Denver, Colorado 80203

**For Darrel G. Segers, d/b/a Star Taxi &
Associates, a/k/a Designated Drivers:**

By: 
Darrel G. Segers
3012 1/2 Hill Court
Grand Junction, Colorado 81504

Approved as to form:

KEN SALAZAR
Attorney General

By: 

JOHN J. ROBERTS, 30124*
Assistant Attorney General
Business and Licensing Section

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: 303-866-5267
Facsimile: 303-866-5395

Attorneys for Staff of the
Colorado Public Utilities Commission

* Counsel of record

EXHIBIT A

CIVIL PENALTY ASSESSMENT NOTICE
OR NOTICE OF COMPLAINT TO APPEAR

Appendix I
Docket No. 03G-136CP
Decision No. R03-0786
July 17, 2003
Page 8 of 10

NO. 28066 - CPAN

Public Utilities Commission of the State of Colorado
v.

Darrel G. Segers
DBA Star Taxi & Associates
(A.K.A. Designated Drivers)
PUC Authority #: NONE
3012 1/2 Hill Court
Grand Junction, CO 81504

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty
1	02/15/2003	40-10-104(1) C.R.S.	Operating without a Certificate.	Grand Junction, CO	\$400.00
2	02/19/2003	40-10-104(1) C.R.S.	Operating without a Certificate.	Grand Junction, CO	\$400.00
3	02/27/2003	40-10-104(1) C.R.S.	Operating without a Certificate.	Grand Junction, CO	\$400.00
4	02/28/2003	40-10-104(1) C.R.S.	Operating without a Certificate.	Grand Junction, CO	\$400.00
5	03/23/2003	40-10-104(1) C.R.S.	Operating without a Certificate.	Grand Junction, CO	\$400.00

Remarks: Carrier provided a taxi service without a Certificate of Public Convenience and Necessity.

Total Penalty: \$2000.00

I HEREBY ACKNOWLEDGE RECEIPT OF THIS NOTICE.

Respondent's Signature

UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE
LIABILITY OF ALL VIOLATIONS HEREIN.
(See Instructions on Last Page)

Respondent's Signature

If the penalty assessment is not paid within ten days of the issuance of this notice, then you must contact the Public Utilities Commission by 4:00 p.m. on May 28, 2003, to set the alleged violation(s) for hearing. Call the P.U.C. at 800/888-0170, ext. 2824, or 303/894-2824.

THE UNDERSIGNED HAS PROBABLE CAUSE TO BELIEVE THAT THE RESPONDENT COMMITTED THE VIOLATION(S) CITED AND AFFIRMS THAT A COPY OF THIS CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR WAS DULY SERVED UPON THE RESPONDENT.

COMPLAINANT J. P. Opeka #5011
print last name

COMPLAINANT [Signature] #5011
signature

INVESTIGATIVE PERSONNEL OF THE COLORADO PUBLIC UTILITIES COMMISSION

DATED THIS 27th DAY OF March, 2003

Copy Distribution: #1: Commission Records #3: Enforcement
#2: Respondent #4: Colorado Attorney General

Copy # 3

THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION

THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION

This document provides you information about your options upon receipt of this notice. You may pay this civil penalty by mail or in person. Or, you may contest the penalty at a hearing. Please read carefully the following instructions.

CIVIL PENALTY ASSESSMENT NOTICE INSTRUCTIONS

The notice you have received is called a Civil Penalty Assessment Notice. The penalty for the alleged violation(s) is described on the preceding pages. It is the prescribed penalty for the stated violation(s) as required by law and specified in the Public Utilities Commission's Rules and Regulations Concerning Civil Penalties for Carriers. You may pay this penalty by mail or in person.

By paying the Civil Penalty Assessment, you acknowledge your liability.

Your payment may be made by money order or check. Do not mail cash. If the payment is mailed, it must be postmarked no later than 10 days from the date of issuance of this notice. This date appears on the fourth line from the bottom of the previous page.

To receive credit for payment, please sign on the previous page of this notice on the signature line adjacent to the statement "UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATION(S) HEREIN" and enclose this signed notice with the payment. The address to mail or pay in person is:

Public Utilities Commission
1580 Logan Street, Office Level Two
Denver, CO 80203

COMPLAINT TO APPEAR NOTICE INSTRUCTIONS

If you decide to not pay the penalty and want to contest it, you are required to contact the Public Utilities Commission by 4 p.m. on or before the date and at the telephone number shown on the previous page. When you call the Commission, be prepared to provide dates when you will be available to attend a hearing on this issue. If you fail to contact the Commission before 4 p.m. on the date shown, the Commission shall set the hearing date without any preference to your wishes. You will be notified about the hearing date. If you are under 18 years of age, you must be accompanied by a parent or a guardian at the hearing.

CERTIFICATE OF SERVICE

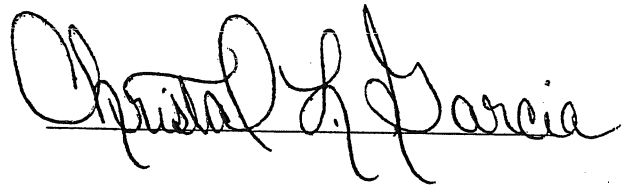
This is to certify that I have duly served the foregoing STIPULATION AND SETTLEMENT AGREEMENT upon all parties herein by depositing copies of same in the United States mail, postage prepaid, or as otherwise indicated, at Denver, Colorado this 16th day of July 2003, addressed as follows:

Darrel G. Segers d/b/a Star Taxi & Associates
a/k/a Designated Drivers
3012 ½ Hill Court
Grand Junction, CO 81504

**Robert Laws
Public Utilities Commission
1580 Logan Street, OL-2
Denver, CO 80203
BY INTERDEPARTMENTAL MAIL

**John Opeka
Public Utilities Commission
1580 Logan Street, OL-1
Denver, CO 80203
BY INTERDEPARTMENTAL MAIL

Dino Ioannides
Advisory Staff
Public Utilities Commission
1580 Logan Street, OL-1
Denver, CO 80203
BY INTERDEPARTMENTAL MAIL


Crystal L. Garcia