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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Docket No. 03G-482CP
Civil Penalty Assessment Notice No. 28383

STIPULATION OF SETTLEMENT OF CIVIL PENALTY ASSESSMENT NO. 28383
AND MOTION TO VACATE HEARING AND CLOSE DOCKET NO. 03G-482CP.

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

Boulder Shuttle, LLC DBA Boulder Airporter

Respondent.

ORIGINAL

Staff of the Public Utilities Commission of the State of Colorado (Staff) and Boulder Shuttle, LLC (Respondent) (Staff and Respondent collectively, Parties), enter into this Stipulation and Settlement Agreement (Stipulation) to stipulate and settle all disputed issues arising out of Civil Penalty Assessment Notice or Notice of Complaint to Appear No. 28383 (CPAN No. 28383). Parties 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.

Ross Alexander, President and Chief Operating Officer, states that he has the authority to execute this Stipulation on behalf of the Respondent. Staff states that the undersigned member of Staff has the authority to execute this Stipulation on behalf of Staff.

I. BACKGROUND

1. On October 30, 2003, Staff issued CPAN No. 28383 to Respondent. A copy of CPAN No. 28383 is attached to this Stipulation as Exhibit A and is incorporated herein by reference. CPAN No. 28383 cites Respondent for violations of the Commission's Rules Regulating Safety for Motor Vehicle Carriers and Establishing Civil Penalties, 4 CCR 723-15. CPAN No. 28383 specifically cites Respondent for twenty-five (25) violations of 4 CCR 723-15-2.1, which provides:

Except as otherwise provided in these rules, the Commission incorporates by reference the regulations published in Title 21, Code of Federal Regulations §1308.11, revised as of April 1, 1999, and Title 49, Code of Federal Regulations, Parts 40, 382, 383, 390, 391, 392, 393, 395, 396, and 399, and Appendix G to Subchapter B of Chapter III, revised as of October 1, 1998. No later amendments to or additions of the Code of Federal Regulations are incorporated into these rules.

2. The violations alleged in CPAN No. 28383 occurred on or between August 1, 2003 and August 29, 2003. CPAN No. 28383 alleges violations of Parts 382.301(a), and 391.11(c)(1) of Title 49, CFR. Part 391.11(c)(1) was a typo and should have read 396.11(c)(1), as was 4 CCR 723-15-3, which should have read 4 CCR 723-15-2.

a. Part 382.301(a) of Title 49, CFR, provides in relevant part: "Prior to the first time a driver performs safety-sensitive functions for an employer,

the driver shall undergo testing for controlled substances as a condition prior to being used.”

- b. Part 396.11(c)(1) of Title 49, CFR, provides in relevant part: “Every motor carrier or its agent shall certify on the original driver vehicle inspection report which lists any defect or deficiency that the defect or deficiency has been repaired or that repair is unnecessary before the vehicle is operated again.”
3. Section 40-7-113(1)(g), C.R.S. provides in pertinent part: “Any person who violates any safety rule promulgated by the commission shall be subject to civil penalties.”
4. The Commission’s Rules Regulating Safety for Motor Vehicle Carriers and Establishing Civil Penalties, 4 CCR 723-15-12, authorize a civil penalty of up to two hundred dollars (\$200.00) per violation for each category of violation cited in CPAN No. 28383 (4 CCR 723-15-12.7)
5. For purposes of settlement and conditional upon the Commission’s approval of this Stipulation, Respondent Admits that, as set forth on CPAN No. 28383:
 - a. Between August 1, 2003 and August 29, 2003, Respondent committed six (6) separate violations of the requirement for drivers to have a pre-employment controlled substance test, as required by 49 CFR Section 382.301(a);

- b. Between August 1, 2003 and August 29, 2003, Respondent committed nineteen (19) separate violations of the requirement to certify repairs were made on driver vehicle inspection reports, as required by 49 CFR Section 396.11(c)(1)

II. STIPULATION

6. 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 requirements of pre-employment controlled substance testing and certifying repairs have been made on driver vehicle inspection reports, as required by 4 CCR 723-15-2.1 and 49 CFR Parts 382.301(a) and 396.11(c)(1). A copy of a letter dated December 18, 2003, from Respondent outlining the measures Respondent has taken or is taking to ensure compliance is attached to this Stipulation as Exhibit B and is incorporated herein by reference.
7. Parties agree that the proper citation for CPAN No. 28383 is 396.11(c)(1) and not 391.11(c)(1).

8. Parties agree that the proper citation for CPAN No. 28383 is 4 CCR 723-15-2 and not 4 CCR 723-15-3.
9. Staff agrees to accept a reduced payment of two thousand five hundred dollars (\$2,500.00) for the civil penalty assessed by CPAN No. 28383.
10. Staff acceptance of a reduced penalty of two thousand five hundred dollars (\$2,500.00) is appropriate in light of the measures undertaken by Respondent to ensure future compliance with the requirements of 4 CCR 723-15-2.1 and Parts 382.301(a) and 396.11(c)(1) of Title 49, CFR.
11. Respondent shall remit to the Commission the amount of two thousand five hundred dollars (\$2,500.00) in satisfaction of CPAN No. 28383. Respondent shall remit the two thousand five hundred dollars (\$2,500.00) not later than ten (10) calendar days after the date of the final Commission decision approving the Stipulation.
12. Respondent agrees that if the Commission approves this Stipulation and if Respondent fails to comply with the provisions of Paragraph 11 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 five thousand dollars (\$5000.00) penalty assessed by CPAN No. 28383, less any payments made by Respondent to date, shall immediately be due and payable.

III. GENERAL PROVISIONS

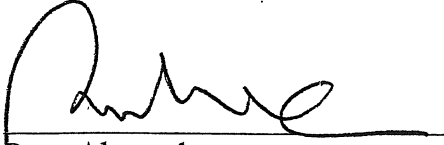
13. The Parties agree that the Commission should approve this Stipulation in its entirety and vacate the hearing set for January 12, 2003.
14. The Parties agree that reaching this agreement by means of negotiation and settlement rather than through litigation is in the public interest and that the results 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 with the terms set forth in Section II above.
15. 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.
16. If the Commission does not approve this Stipulation in its entirety, this Stipulation may be rendered null and void. If the Commission imposes any 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) business days, in writing, after the date of 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 reset for hearing.

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

Dated this 30th day of December, 2003.

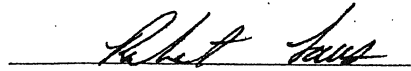
For Boulder Shuttle, LLC



Ross Alexander
Boulder Shuttle, LLC
7500 east 41st Avenue
Denver, CO 80216

Date: 12/30/03

For Staff of the Colorado Public Utilities Commission



Robert Laws, Senior Compliance Investigator
Colorado Public Utilities Commission
1580 Logan Street, OL2
Denver, CO 80203

Date: 12/30/03

EXHIBIT A

Attachment
 Docket No. 03G-482CP
 Decision No. R04-0032
 January 9, 2004
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**CIVIL PENALTY ASSESSMENT NOTICE
 OR NOTICE OF COMPLAINT TO APPEAR**

NO. 28383 - CPAN

Public Utilities Commission of the State of Colorado

v.

Boulder Shuttle, LLC
 DBA Boulder Airporter
 PUC Authority #: 191
 2560 49th Street
 Boulder, CO 80301

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty
1	8/1/2003	4 CCR 723-15-3 CFR 382.301(a)	You have permitted Z. Zeiler to perform safety-sensitive functions without having received a verified negative result on controlled substances pre-employment testing.	Boulder, CO	\$200.00
2	8/2/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
3	8/2/2003	4 CCR 723-15-3 CFR 382.301(a)	You have permitted Z. Zeiler to perform safety-sensitive functions without having received a verified negative result on controlled substances pre-employment testing.	Boulder, CO	\$200.00
4	8/3/2003	4 CCR 723-15-3 CFR 382.301(a)	You have permitted Z. Zeiler to perform safety-sensitive functions without having received a verified negative result on controlled substances pre-employment testing.	Boulder, CO	\$200.00
5	8/4/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before unit #240 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
6	8/4/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
7	8/4/2003	4 CCR 723-15-3 CFR 382.301(a)	You have permitted Z. Zeiler to perform safety-sensitive functions without having received a verified negative result on controlled substances pre-employment testing.	Boulder, CO	\$200.00

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 DBA Boulder Airporter
 PUC Authority #: 191
 2560 49th Street
 Boulder, CO 80301

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty
8	8/5/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #240 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
9	8/6/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #240 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
10	8/7/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #240 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
11	8/7/2003	4 CCR 723-15-3 CFR 382.301(a)	You have permitted Z. Zeiler to perform safety-sensitive functions without having received a verified negative result on controlled substances pre-employment testing.	Boulder, CO	\$200.00
12	8/8/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #240 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
13	8/9/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
14	8/11/2003	4 CCR 723-15-3 CFR 382.301(a)	You have permitted Z. Zeiler to perform safety-sensitive functions without having received a verified negative result on controlled substances pre-employment testing.	Boulder, CO	\$200.00

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NO. 28383 - CPAN

Public Utilities Commission of the State of Colorado

v.

Boulder Shuttle, LLC
 DBA Boulder Airporter
 PUC Authority #: 191
 2560 49th Street
 Boulder, CO 80301

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty
15	8/18/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
16	8/19/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
17	8/20/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #219 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
18	8/20/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
19	8/21/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #219 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
20	8/21/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
21	8/22/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00

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NO. 28383 - CPAN

Public Utilities Commission of the State of Colorado
v.

Boulder Shuttle, LLC
DBA Boulder Airporter
PUC Authority #: 191
2560 49th Street
Boulder, CO 80301

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty
22	8/23/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
23	8/24/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
24	8/25/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00
25	8/29/2003	4 CCR 723-15-3 CFR 391.11(c) (1)	You have failed to certify, before Unit #223 is again dispatched, that defects listed on the vehicle inspection report(s) have been corrected or that correction is unnecessary	Boulder, CO	\$200.00

Total Penalty: \$5000.00

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 December 1, 2003 to set the alleged violation(s) for hearing. Call the P.U.C. at 800/888-0170, ext. 2824, or 303/894-2824.

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NO. 28383 - CPAN

Public Utilities Commission of the State of Colorado
v.

Boulder Shuttle, LLC
DBA Boulder Airporter
PUC Authority #: 191
2560 49th Street
Boulder, CO 80301

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

INVESTIGATIVE PERSONNEL OF THE COLORADO PUBLIC UTILITIES COMMISSION

DATED THIS 30th DAY OF October, 2003

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

Copy # _____

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.

Yellow Transportation**EXHIBIT B**

December 23, 2003

To **Bob Laws**
Office of Enforcement
Public Utilities Commission
1580 Logan St,
Denver, CO 80203

RE: **Boulder Shuttle LLC**
Civil Penalty Assessment No. 28383-CPAN
Mr. Laws,

Boulder Shuttle LLC has reviewed the Civil Penalty Assessment No 28383-CPAN and acknowledges liability for the violations cited. Specifically CCR 723-15-3 CFR 391.301 (a)- Allowing a person to perform safety-sensitive functions without having received verified negative results on controlled substances pre-employment testing, and CCR 723—15-3 CFR 391.11 (c) (a)-Failure to certify the a vehicle has had its defects corrected before it is dispatched back into service.

Our Manager in Boulder has taken strides to address both of theses infractions.

Concerning CCR 723—15-3 CFR 391.11 (c) (a)

Memos to the repair shop manager and verbal follow-up now assure us that no vehicle will be allowed back onto the road until the repairs noted in the post trip surveillance are corrected or noted as "not necessary". Our vehicle log book will reflect the repairs as well as in our vehicle data base. Those repairs that are not of safety issues will be noted in the log book and seen to in a timely fashion not to exceed 10 days. A memo stating this was presented to Mr. Laws at our pre-trail meeting dated Friday, December 19, 2003

Concerning CCR 723-15-3 CFR 391.301 (a)

It has been made clear to both the Operation Manger and the Driver supervisors that pre-employment testing can in no way be waived or delayed, even if the driver is employed with another company also regulated by the DOT or PUC. Even if it is acceptable to use a current DOT card, unequivocal proof must be secured and records must be copied and filed.

We hope that our corrections are seen in the light they are attended and that there can be a reduction of the Civil Penalty assessed.

Sincerely,

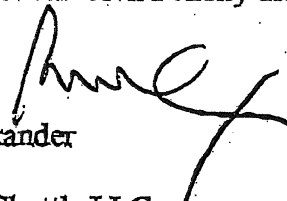

Ross Alexander
President
Boulder, Shuttle LLC

EXHIBIT B

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Memo

To: KIM NGUYEN
From: CHRIS LARSON
CC:
Date: 11/07/03
Re: MAINTENANCE / PUC

Kim,

One of the issues we discovered after the PUC inspection was documenting maintenance issues on the particular vans.

When a maintenance item is written up by a driver, the mechanic that addresses the item must document the fact that

1. Either the item is a non-safety issue.
2. or that the problem has been repaired and the van is ready for duty.

This needs to be documented in the VIR booklet in each van, so the drivers are aware of the fact that the problem has been repaired, or that the mechanic has looked at the van and deemed it a non-safety issue.

Chris Larson

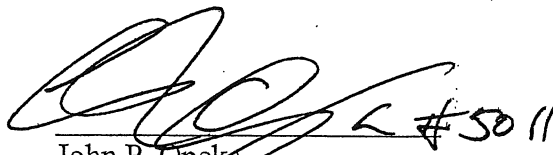
CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STIPULATION OF SETTLEMENT OF CIVIL PENALTY ASSESSMENT NO. 28383 AND MOTION TO VACATE HEARING AND CLOSE DOCKET NO. 03G-482CP upon all parties herein, by U.S. mail or in person, on this 30th day of December, 2003.

Ross Alexander
Boulder Shuttle, LLC
7500 east 41st Avenue
Denver, CO 80216

Bruce N. Smith, Director
Public Utilities Commission
1580 Logan Street, OL-2
Denver, CO 80203

Robert C. Laws
Staff of the Commission
1580 Logan Street, OL2
Denver, CO 80203



John P. Opeka
Staff of the Commission
580 Logan Street, OL2
Denver, CO 80203