

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF  
COLORADO

PROCEEDING NO. 15G-0146CP

Civil Penalty Assessment Notice No. 111883

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PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

BAYERA L. MIDEKSSA,

Respondent.

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**STIPULATION AND SETTLEMENT AGREEMENT**

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Staff of the Public Utilities Commission (“Staff”) and Respondent, Bayera L. Midekssa (“Respondent”) (collectively, the “Parties”) enter into this Stipulation and Settlement Agreement (“Agreement”) in the above-referenced proceeding as a complete and final resolution of all issues that were or could have been raised in this proceeding.

**Background**

On March 6, 2015, the Commission issued Respondent Civil Penalty Assessment Notice No. 111883 (the “CPAN”) seeking civil penalties of \$13,310.00 (or \$6,655.00 if paid within 10 days). The CPAN alleged one violation of section 40-10.1-201(1), C.R.S., and one violation of section 40-10.1-107(1), C.R.S. The CPAN was served by hand delivery on March 6, 2015.

Staff moved to amend the CPAN by changing the first count to a violation of 4 CCR 723-6-6309(a), and by dismissing the second count. By Decision No. R15-0639-I, the motion to amend was granted, and Respondent was provided a ten-day period to pay the reduced amount of \$605.00

### **Settlement Agreement**

Staff and Respondent hereby stipulate and agree as follows:

1. Respondent admits liability to all violations, after dismissal of the second count, in the CPAN.

2. Respondent agrees to comply with all Colorado and federal statutes and rules concerning operation of a luxury limousine service.

3. The Agreement herein has been reached in the spirit of compromise and in light of the uncertainties of trial. The Agreement has also been reached to avoid the costly expense of litigation. The Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter. The public interest is served by requiring the payment by Respondent of a civil penalty in the amount of \$605.00 under the terms in this Agreement. In reducing the penalty, Staff considered the following mitigating factors pursuant to Commission Rule 1302(b):

- a. Respondent operates a one car/one driver motor carrier business.
- b. The full amount of the CPAN would cause financial hardship on Respondent.

- c. Respondent is elderly and relies on a fixed income.
- d. Respondent understands that, even with a repeat customer, a charter order is still required as well as prearrangement.
- e. Respondent contacted the PUC within 10 days of the CPAN being amended.
- f. Respondent has actively been engaged with the PUC to resolve this CPAN.
- g. Assessing Respondent a civil penalty of \$605.00 under the terms herein is sufficient motivation for Respondent to remain in compliance with the Public Utilities Laws and Commission Rules on a going-forward basis.

4. In consideration of Respondent's admission of liability, and for the reasons expressed above, Staff agrees reducing the amount of the civil penalty from \$1,210.00 to \$605.00 is appropriate and in the public interest. This \$605.00 settlement amount consists of a \$550.00 penalty, plus a ten-percent surcharge of \$55.00 pursuant to section 24-34-108, C.R.S.

5. Respondent shall pay the total amount of \$605.00 in two installments. The first installment of \$302.50 is due within 10 days of the Commission's final order approving this Agreement, and the balance of \$302.50 is due 45 days following the first installment's due date.

6. If Respondent fails to make any of the installment payments when due, Respondent shall be liable for the full civil penalty amount of \$1,210.00 less any payments made, which amount will be due immediately.

7. Respondent further agrees that if, during any investigation(s) conducted by Staff within twelve months of the date of a Commission final order in this proceeding, the Commission finds any violations of rules or statutes the same or of a similar nature as the violation for which Respondent has admitted liability, Respondent shall be liable for the full civil penalty, less payments made. In this event, the remaining full civil penalty will be due immediately. Respondent and Staff agree the specific intent of this provision is to prevent further violations of the Public Utilities Laws and Commission Rules.

8. All matters that were raised or could have been raised in this proceeding relating to the issues specifically identified and addressed herein have been resolved by this Agreement. This Agreement may be executed in counterparts, each of which when taken together shall constitute the entire Agreement of the Parties, and no further modification of this Agreement is allowed, except in writing by the parties, and further agreed to in an order issued by the Commission.

9. Respondent's failure to complete its payment obligations as set forth in this Agreement shall also be deemed a waiver by Respondent of any and all rights to file exceptions and/or a request for rehearing, reargument, and reconsideration, or to file any other form of appeal.

10. In the event that this Agreement is modified or not approved in its entirety, either Party, at that Party's option, may withdraw from this Agreement by filing a notice with the Commission in this proceeding within seven days of entry of

such Order. In that event, this Agreement shall be void and this matter shall be set for hearing.

Executed this \_\_\_\_ day of July, 2015.

STAFF OF THE COLORADO  
PUBLIC UTILITIES COMMISSION

By:  \_\_\_\_\_

Tony Cummings

Lead Criminal Investigator, Investigations and Compliance

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*Approved as to form:*

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