

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF
COLORADO

PROCEEDING NO. 14G-0373CP

Civil Penalty Assessment Notice No. 109241

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

COLORADO CAB COMPANY LLC,

Respondent.

STIPULATION AND SETTLEMENT AGREEMENT

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

Background

In March 2014, Staff conducted a safety audit of Respondent. Staff collected handwritten driver timesheets and digital data that recorded driver hours of service and driver vehicle inspection reports required to be kept by Commission rule, among other documents. On April 24, 2014, the Commission issued Respondent Civil Penalty Assessment Notice No. 109241 (the “CPAN”) seeking civil penalties of

\$1,903,000.00 (or \$951,500.00 if paid within 10 days). The CPAN was served on Respondent by hand delivery on April 24, 2014.

The CPAN has been amended twice, first by Interim Decision No. R14-0772-I and then by the filing of the Second Amended CPAN on December 5, 2014. The Second Amended CPAN alleged that during the period from October 25, 2013 through November 30, 2013 the following violations: 28 violations of 4 *Code of Colorado Regulations* (“CCR”) § 723-6-6103(d)(II)(A); 207 violations of 4 CCR § 723-6-6103(d)(II)(d), 423 violations of 4 CCR 723-6-6102(a)(I) and 49 CFR § 390.35(b); and 30 violations of CCR 723-6-6102(a)(I) and 49 CFR § 396.11(b). As a result of the amendments, the total civil penalties sought were reduced to \$1,817,750.00.

Settlement Agreement

Staff and Respondent hereby stipulate and agree as follows:

1. Respondent admits to violations of the 16-Hour Rule (4 CCR § 723-6-6103(d)(II)(A)); violations of the 80-in-8 Rule (4 CCR § 723-6-6103(d)(II)(D)); maintaining inaccurate time records; and violations of failure to require drivers to submit fully completed driver vehicle inspection reports (4 CCR § 723-6-6102(a) and 49 CFR 396.11(b). Nothing herein shall be construed as an admission or finding for any purposes that Respondent committed violations of 4 CCR 723-6-6102(a)(I) and 49 CFR § 390.35(b).

2. Respondent agrees to comply with all Colorado and federal statutes and rules including, but not limited to those concerning maintenance of true and accurate

records; driver hours of service; and required content for driver vehicle inspection reports.

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 \$398,000.00 under the terms in this Agreement. In reducing the penalty, Staff considered the following mitigating factors pursuant to Commission Rule 1302(b):

- a. A complete change in management personnel running Respondent.
- b. Operational changes continue on an ongoing basis.
- c. The new General Manager/Project Manager is in the process of making the below changes.
- d. Respondent is employing redundant GPS systems, to better monitor driver locations.
- e. Meters will be built into tablets for better monitoring of driver's activities.
- f. Respondent has invested a significant amount into a new GPS system, to improve the GPS system to track drivers and maintain the information required by the Commission's regulations.
- g. Credit card payment systems are being installed in the rear of the vehicles with a statement for the consumer stating, "If payment cannot be made on this device, then your ride is free." This will prevent drivers from using an alternate payment method or taking cash and being able to stay off GPS and the

dispatch system. This change will support Respondent's goal of being able to more accurately track drivers' of hours of service.

- h. A new smart phone system similar to that utilized by TNCs will allow consumers to solicit a taxi immediately or at a later time.
- i. Respondent is installing a new automated cashier system with a driver portal, which will directly deposit payments into the drivers' bank accounts. This will eliminate the use of cash transactions that cannot be tracked by the motor carrier.
- j. Respondent is instituting new procedures to set high standards for hours of service and other safety concerns, and to address violations in a streamlined manner.

4. In consideration of Respondent's admission of liability set forth above, and for the reasons expressed above, Staff agrees reducing the amount of the civil penalty from \$1,817,750.00 to \$398,000.00 is appropriate and in the public interest. This \$398,000.00 settlement amount consists of a \$361,818.19 penalty, plus a ten-percent surcharge of \$36,181.81 pursuant to section 24-34-108, C.R.S.

5. Respondents shall pay the total amount of \$398,000.00 within 20 days of the Commission's final order approving this settlement agreement.

6. If Respondent fails to make the payment when due, Respondent shall be liable for the full civil penalty amount of \$1,817,750.00 less any payments made, which amount will be due immediately.

7. All matters that were raised or could have been raised in this Docket relating to the issues specifically identified and addressed herein have been resolved by this Agreement. Nonetheless, the Parties agree that they continue to have disagreements as to the proper application of various Commission Rules and legal principles to the facts brought to light in this proceeding, including hours of service

recordkeeping. The parties will work together in an attempt to resolve their disagreements. Nevertheless, this Agreement does not in any manner restrict the ability of either Staff or Respondent to make their respective arguments regarding the Commission's rules and other applicable law in future proceedings.

8. 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 Docket within seven days of entry of such Order. In that event, this Agreement shall be void and this matter shall be set for hearing.

11. William George is authorized to execute this Agreement on behalf of Respondent.

12. Cliff Hinson, Manager of Investigations and Compliance, is authorized to execute this Agreement on behalf of Staff.

Executed this 27th day of January, 2016.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

By: 

Cliff Hinson

Manager, Investigations and Compliance
Colorado Public Utilities Commission
1560 Broadway Suite 250
Denver, Colorado 80202

COLORADO CAB COMPANY, LLC

By: _____

William George

7500 E. 41st Ave.
Denver, Colorado 80216
Phone: 303-399-0332

Executed this ____ day of January, 2016.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

By: _____
Cliff Hinson
Manager, Investigations and Compliance
Colorado Public Utilities Commission
1560 Broadway Suite 250
Denver, Colorado 80202


COLORADO CAB COMPANY, LLC

By:  _____
William George, Representative

7500 E. 41st Ave.
Denver, Colorado 80216
Phone: 303-399-0332

Approved as to form:

CYNTHIA H. COFFMAN
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