

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO
PROCEEDING NO. 18G-0735TO

Civil Penalty Assessment Notice: 122354

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

PARKING AUTHORITY LLC,

Respondent.

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Trial Staff of the Colorado Public Utilities Commission (Staff) and Parking Authority LLC (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. Jeff Wiebold is the partial owner of Respondent company and has authority to enter into this Agreement on behalf of Respondent as an officer and manager.

BACKGROUND AND RECITALS

1. The company originally known as Parking Authority LLC was issued permit number T-04164 on February 28, 2011. On June 14, 2018, Parking Authority LLC sold certain assets, as well as the right to use the name "Parking Authority," to Wiebold Company LLC. Parking Authority LLC and Wiebold Company LLC entered

into a Contract Assignment and Assumption Agreement in June, 2018, and, through this agreement, Wiebold Company LLC acquired certain assets of Parking Authority LLC, including the claimed assignment of certain Professional Parking Management & Enforcement Services contracts belonging to Parking Authority LLC.

2. At approximately the same time that the parties entered into the Contract Assignment and Assumption Agreement, Wiebold Company LLC filed incorporation documents with the Colorado Secretary of State to conduct business as a towing carrier in the State of Colorado. Wiebold Company LLC also filed a Statement of Trade Name of a Reporting Entity with the Colorado Secretary of State and represented that it intended to conduct business in Colorado as “Parking Authority” while lawyers for the previous company filed a trade name for Wiebold Company LLC as “Parking Authority LLC”.

3. Accordingly, at the time of the tow in question, Wiebold Company LLC purported to operate under the trade name Parking Authority and used the PUC permit of the predecessor corporation for its towing operations.

4. During the fall of 2018, Wiebold Company LLC represented to Staff that it decided to conclude its operations as a towing carrier and that it has completed, or that it is currently in, the process of winding up its operations and concluding its business. Wiebold Company LLC filed a Statement of Trade Name Withdrawal with the Colorado Secretary of State withdrawing the trade name of Parking Authority LLC when the error was discovered by counsel.

5. On October 24, 2018, Staff issued Civil Penalty and Assessment or Notice of Complaint to Appear (CPAN) Number 122354 to Parking Authority LLC, which was served on Respondent by certified mail. The CPAN alleges one violation of 4 C.C.R. 723-6-6508(b)(I) on August 24, 2018 for failure to have proper authorization prior to the performance of a nonconsensual tow. The CPAN states that the civil penalty assessed for the alleged violation is \$1,100.00, plus an additional 15 percent surcharge, for a total amount of \$1265.00. It further provides that if Respondent pays the civil penalty within 10 calendar days of its receipt of the CPAN, the civil penalty will be reduced to \$632.50. The CPAN also states that the Commission may order Respondent to cease and desist from violating statutes and Commission rules. The Respondent did not pay the CPAN within 10-days after service.

6. For the purposes of this Agreement, Respondent admits that Wiebold Company LLC purchased the assets of Parking Authority, LLC and that it conducted business as Wiebold Company, LLC, doing business as Parking Authority and Parking Authority LLC. Respondent further admits that it conducted business as a towing carrier under the trade name Parking Authority and Parking Authority LLC in the State of Colorado during the time of the tow in question in this proceeding. Respondent also admits that it performed the tow in question and agrees to resolve, settle, and compromise the above-captioned proceeding on behalf of Wiebold Company LLC, Parking Authority, LLC, and Wiebold Company LLC, doing business as Parking Authority and Parking Authority LLC.

SETTLEMENT AND AGREEMENT

7. The Parties have reached a settlement in this matter. The settlement amount includes a penalty amount of \$500.00. Respondent also will pay, or has already paid, a refund to the complainant of \$316.90.

8. Respondent admits liability for all violations in the CPAN.

9. In the course of wrapping up its business, Respondent agrees to comply with all Colorado and federal statutes, regulations, and rules concerning towing carriers.

10. In consideration of the following promises and agreements set out in this Agreement and for other good and valuable consideration, the sufficiency and adequacy of which are acknowledged herein, the Parties have agreed to the following terms and conditions.

A. Performance by Staff

- i. Staff will agree to reduce the amount of the penalty from \$1265.00 to \$500.00. This amount includes a \$434.78 penalty amount plus a \$65.22 surcharge. Staff will require that Respondent pay a refund to the complainant of \$316.90 and will credit Respondent for any amount already refunded.
- ii. Staff will agree to consider the following mitigating factors pursuant to Commission Rule 1302(b), in reducing the penalty amount:

1. Respondent, through counsel, has informed Staff of its intent to cease operating as a towing carrier in Colorado, and that it is in the process of winding up this business;
2. Respondent, through counsel, actively worked with and has cooperated with the PUC to resolve the CPAN.

B. Performance by Respondent

- i. Respondent will pay a penalty amount of \$500.00. This amount includes a \$434.78 penalty amount plus a \$65.22 surcharge.
- ii. Respondent will pay, or has already paid, a refund to the complainant of \$316.90.
- iii. Respondent shall pay the penalty amount and the refund within 10 days after the recommended decision becomes an order of the Commission.
- iv. Respondent will voluntarily surrender the permit for Parking Authority LLC (Permit No. T-04164) to Staff within 10 days after the recommended decision becomes an order of the Commission.
- v. If Respondent fails to make a timely payment according to the conditions of this Agreement, or if the refund check is returned for insufficient funds, Respondent shall be liable for the full civil penalty amount of \$1265.00 and the full refund amount of

\$316.90, less any payments made, which amount will be owed immediately.

- vi. If Respondent fails to surrender the permit for Parking Authority LLC (Permit No. T-04164) within ten (10) days of the Commission's final decision, the permit is revoked immediately.
- vii. If Respondent violates any of the terms in this Agreement, or is found in violation of the admitted violation in this docket within one (1) year of the last payment received, the full amount of the balance owed for the penalty will be due and owing immediately.

11. This Agreement has been reached in the spirit of compromise and to avoid the uncertainties of trial and the costly expense of litigation.

12. This Agreement promotes administrative efficiency because it avoids the time and expense that necessarily would be devoted to preparing for and attending the hearing for this proceeding.

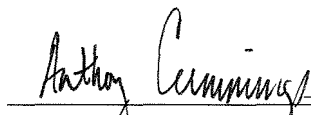
13. This Agreement serves the public interest because it requires Respondent to pay a total civil penalty of \$500.00, and provide a refund to the complainant of \$316.90, according to the terms of paragraph 10.B., and allows Respondent to surrender its permit in connection with its ceasing of towing carrier operations in Colorado.

14. The Parties agree that all matters that have been raised, or that could have been raised, in this proceeding have been resolved by this Agreement.

15. This Agreement may be signed in counterparts, each of which, taken together, shall constitute the entire agreement of the Parties.
16. This Agreement may not be modified by the Parties except in writing, with the express agreement of each Party, and with approval of the Commission.
17. Respondent's failure to comply with its payment obligations described in paragraph 10.B., or its failure to comply with its permit surrender obligations as described in paragraph 10.B., shall be deemed a waiver by Respondent of any and all rights to file exceptions, as well as a request for rehearing, reargument, and reconsideration **(RRR)**, or to file any other form of appeal.
18. Should this Agreement be modified or fail to be approved in its entirety by an Administrative Law Judge or the Commission, 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 the entry of such order. In this event, this Agreement shall be void and this matter be reset for hearing.

Dated this 25 day of February, 2019.

STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION


By:  _____
Anthony Cummings
Lead Criminal Investigator, Investigations and Compliance Units
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, CO 80202

PARKING AUTHORITY LLC

By:  _____
JF Wiebold
Partial Owner, Officer, and Manager
Wiebold Company LLC, d/b/a Parking Authority
P.O. Box 1151
Commerce City, CO 80022

Approved as to form:

PHILIP J. WEISER
Attorney General

By: 
Heather Whitman, Reg. No. 31909*
Assistant Attorney General
Revenue and Utilities Section
Colorado Department of Law
1300 Broadway, 8th floor
Denver, CO 80203
Phone: (720) 508-6147
Fax: (720) 505-6038
E-mail: heather.whitman@coag.gov
*Counsel of Record

Attorney for Colorado Public Utilities Commission Staff

By: s/ Brian DeBauche, Esq.
Brian DeBauche, Esq.
The Law Firm of Brian DeBauche
401 Kalamath Street
Denver, CO 80204
Phone: (303) 571-5023
Email: briandebauche@denverlawshark.com

Counsel for Respondent