

Decision No. R23-0071-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22G-0433TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

FREDDIE DICKEY AND STEVEN KNOST, DOING BUSINESS AS ANYTIME TOWING,
INC., PREDATOR RECOVERY, INC., AND SURE SHOT RECOVERY, INC.

RESPONDENTS.

**INTERIM DECISION OF
ADMISTRATIVE LAW JUDGE
ALENKA HAN
GRANTING MOTION TO AMEND THE CPANS**

Mailed Date: February 3, 2023

I. STATEMENT

A. Procedural and Factual Background

1. On October 12, 2022, the Commission issued Civil Penalty Assessment Notice (CPAN) No. 131546, against Freddie Dickey and Steven Knost, doing business as Anytime Towing, Inc., Predator Recovery, Inc., and Sure Shot Recovery, Inc. (collectively Respondents). The CPAN asserted eleven violations of Commission rules, a violation of § 40-10.1-107(1), C.R.S., and a violation of § 40-10.1-401(1)(a) allegedly committed by Respondents on June 1, 2022 and assessed a total penalty amount of \$22,080.00. The Commission designated CPAN No. 131546 as Proceeding No. 22G-0433TO.

2. On October 11, 2022, the Commission also issued CPAN No. 132415, against the same Respondents. CPAN No. 132415 asserted ten violations of Commission rules allegedly committed by Respondents on July 30, 2022. CPAN No. 132415 assessed a total penalty of \$7,273.75. Both Mr. Dickey and Mr. Knost signed copies of CPAN No. 132415 served on each of them, acknowledging receipt of the same. The Commission designated CPAN No. 132415 as Proceeding No. 22G-0434TO.

3. Commission Staff entered its appearance in both Proceedings on November 10, 2022.

4. On November 23, 2022, the Commission referred both Proceeding No. 22G-0433TO and Proceeding No. 22G-0434TO to an ALJ for disposition.

5. By Decision No. R23-0007-I, issued January 6, 2023, the ALJ consolidated the two proceedings and ordered that Proceeding No. 22G-0433TO shall be the primary proceeding.

6. Decision No. R23-0007-I also scheduled an evidentiary hearing in this Proceeding for Monday, February 13, 2023.

B. Motion to Amend CPANs

7. On January 20, 2023, Commission Staff moved to amend a paragraph in each CPAN to correct errors in the original CPANs. Specifically,

- a) Commission Staff seeks to amend the nature-of-the-violation description in Violation 10 of CPAN No. 132415 from its current iteration which reads:
 - “Knost and Predator Recovery Inc. DNA Sure Shot Recovery Inc.: The tow Steven Record/Invoice missing required information pre rule. The storage facility address is not printed on invoice #1206.” **to:**
 - “Knost and Predator Recovery Inc. DNA Sure Shot Recovery Inc.: The tow Steven Record/Invoice missing required information pre rule —

Missing required PUC notice language from invoice #1206.” (Emphasis added.)

b) Commission Staff also seeks to amend Violation 6 of CPAN No. 131546 to correct the regulatory reference from that identified in the original CPAN as:

- “4 CCR 723-6508(a)(I)(I)” **to:**
- “4 CCR 723-6508(a)(1)(H)(1).”

8. § 40-7-116(2), C.R.S., provides that “[a]ny defect in the content of” a CPAN “may be cured by a motion to amend the same filed with the [C]ommission prior to hearing on the merits.”

9. The hearing in this Proceeding is schedule to take place on Monday, February 13, 2023. Thus, the Motion to Amend was filed prior to the hearing.

10. Neither proposed amendment alters the nature of the violation allegedly committed by Respondents. Nor does either proposed amendment increase or cause to be increased the penalty assessed against Respondents.

11. The ALJ therefore finds that good cause has been shown to permit the amendment to Violation 10 of CPAN No. 132415.

12. With respect to the citation error in Violation 6 of CPAN No. 131546, the ALJ notes that Rule 6508 includes subsection (a), which incorporates sub-subsections (I), (II), (III), and (IV). Sub-section (I) identifies nine categories of information which must be contained in a towing agreement for the agreement to be valid, (A) through (I), none of which are subdivided further. The undersigned ALJ assumes that Commission Staff intended to seek to correct Violation 6 of CPAN No. 131546 to be styled “4 CCR 723-6508(a)(I)(H).” Rule 6508(a)(I)(H), 4 *Code of Colorado Regulations* (CCR), 723-6, comports with the description provided for Violation 6.

Good cause has thus been shown to amend Violation 6 of CPAN No. 131546 to read “4 CCR 723-6508(a)(I)(H).”

13. Commission Staff represents that it has conferred with Respondents who indicated they do not oppose this Motion to Amend.

14. The ALJ finds that Respondents will not be prejudiced by these amendments to the CPANs.

15. The Motion to Amend will therefore be granted as indicated above.

II. **ORDER**

A. **It Is Ordered That:**

1. Commission Staff’s Motion to Amend the CPANs, filed January 20, 2023, is granted.

2. The nature-of-the-violation description in Violation 10 of CPAN No. 132415 is amended to read: “Knost and Predator Recovery Inc. DNA Sure Shot Recovery Inc.: The tow Steven Record/Invoice missing required information pre rule — Missing required PUC notice language from invoice #1206.”

3. The violation citation in Violation 6 of CPAN No. 131546 is amended to read: “4 CCR 723-6508(a)(I)(H).”

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director