

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22G-0257EC

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

STYLE CAR SERVICE LLC,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
ASSESSING CIVIL PENALTY**

Mailed Date: June 29, 2023

TABLE OF CONTENTS

I. STATEMENT, SUMMARY, AND BACKGROUND.....2

 A. Statement and Summary.....2

 B. Procedural History2

II. FACTUAL FINDINGS6

III. RELEVANT LAW, FINDINGS, ANALYSIS, AND CONCLUSIONS.....32

 A. Commission Authority and Burden of Proof.....32

 B. Service and Notice Requirements33

 C. CPAN34

 1. Findings as to Witness Credibility and Reliability of Key Documentary Evidence.34

 2. Counts 1 to 4, 6 and 7.....42

 3. Counts 9 and 10.....45

4. Counts 8 and 11 to 27.....47

5. Count 2853

6. Counts 29 and 30.....55

D. Civil Penalty Assessment57

Iv. ORDER.....65

A. The Commission Orders That:.....65

I. STATEMENT, SUMMARY, AND BACKGROUND

A. Statement and Summary

1. For the reasons discussed below, this Decision finds that the Colorado Public Utilities Commission Staff (Staff) met its burden of proof as to Counts 1 to 4, 6, 7, 9 to 12, 14, 15, and 18 to 30 of Civil Penalty Assessment Notice No. 129862 (CPAN) filed in this Proceeding and assesses civil penalties and surcharges against Style Car Service LLC (Style Car or the Company) of \$20,000 for those violations. This Decision dismisses CPAN Counts 8, 13, 16, and 17 with prejudice for the reasons discussed.¹

B. Procedural History²

2. Staff initiated this matter on June 8, 2022 by filing the CPAN against Style Car alleging 30 counts of alleged violations of statutes or Commission rules.

¹ In reaching this Decision, unless otherwise stated, the Administrative Law Judge (ALJ) has considered all evidence and arguments presented, including those discussed briefly or not at all. To the extent that a specific argument is not addressed, it has been considered and rejected.

² Only the procedural history necessary to understand this Decision is included.

3. On September 7, 2022, an evidentiary hearing on the CPAN was scheduled for November 2, 2022.³ Based on the parties' agreement, on November 1, 2022, the evidentiary hearing was continued to December 12, 2022.⁴

4. On December 2, 2022, Style Car filed a Partial Motion to Dismiss and Request to Shorten Response Time (Motion to Dismiss), seeking to dismiss CPAN Counts 1 through 8, and 11 through 29.

5. On December 9, 2022, Staff filed a Motion to Amend seeking to amend CPAN Counts 5 and 8.⁵

6. On December 12, 2022, Staff filed a Response in Objection to Partial Motion to Dismiss (Staff's Response).

7. On December 12, 2022, the ALJ held a duly noticed remote evidentiary hearing on the merits of the CPAN.⁶ All parties personally appeared with counsel. As noted in a prior written Decision, before beginning the evidentiary portion of the hearing, the ALJ heard argument on and addressed Staff's Motion to Amend.⁷ Specifically, the ALJ dismissed Count 5 per Staff's request, and deemed Staff's request to amend Count 8 withdrawn.⁸ The ALJ also informed the parties that the merits of the Motion to Dismiss will be addressed in this Decision.⁹

³ Decision No. R22-0526-I (mailed September 7, 2022).

⁴ Decision No. R22-0679-I (mailed November 1, 2022) and R22-0779-I (mailed December 5, 2022).

⁵ Motion to Amend at 2-3.

⁶ See Decision Nos. R22-0526-I and R22-0779-I.

⁷ Decision No. R23-0004-I (mailed January 4, 2023) at 2-3; 5.

⁸ *Id.*

⁹ See Decision No. R23-0004-I at 3.

8. During the hearing, the following witnesses testified: Mess. Shelby Wanamaker, and Erin Haislett and Mr. Gary VanDriel. The following exhibits were admitted into evidence: Hearing Exhibits 100, 100C, 101, 102, 102C, 103-105, 106-108, 106C-108C, 109-110, 110C, 111-116, 115C-116C, 117-120, 201-204, and 207 Confidential (207C). In addition, Hearing Exhibits 201 Confidential (201C) and 207 were also admitted but had to be filed after the hearing because Style Car's counsel did not have the confidential version of Hearing Exhibit 201 and the public version of Hearing Exhibit 207 prepared at the time of the hearing.¹⁰

9. On December 15, 2022, Style Car's counsel filed a redacted (public) and unredacted (confidential) Notice of Correction of Record (Notice), and a Motion to Withdraw as counsel for Style Car. In the Motion to Withdraw, counsel promised to file the two exhibits discussed above.

10. On January 3, 2023, Staff filed an Unopposed Motion for Enlargement of Time seeking to extend the January 9, 2023 deadline to file statements of position (SOPs) to January 30, 2023.

11. On January 4, 2023, the ALJ extended the deadline to file SOPs to February 6, 2023, to allow additional time given the issues with the record and Style Car's counsel's potential withdrawal.¹¹ In addition, because Style Car had still not filed Hearing Exhibit 201C and Hearing Exhibit 207, the ALJ ordered Style Car to file the exhibits as soon as possible, but no later than January 9, 2023, or to make a filing showing cause why the exhibits

¹⁰ *Infra*, ¶ 12. The versions of Hearing Exhibit 201C and 207 that Style Car filed on January 9, 2023 were admitted into evidence without objection. *See* December 12, 2022 Hearing Transcript (12/12/22 Tr.), 264: 10-25—265: 1-24.

¹¹ Decision No. R23-0004-I at 5 (mailed January 4, 2023)

cannot be submitted.¹² At the same time, the ALJ noted that she would not grant counsel's Motion to Withdraw until the issues with these two exhibits are addressed.¹³

12. On January 9, 2023, Style Car's counsel addressed the above issues by filing the two exhibits. Since counsel complied with the order to submit the two referenced exhibits and Style Car did not object to counsel's withdrawal, on January 12, 2023, the ALJ granted counsel's Motion to Withdraw.¹⁴ Because Style Car is a limited liability company (and not an individual), the Decision granting the Motion to Withdraw advised Style Car that parties appearing before the Commission must be represented by an attorney authorized to practice law, but that a non-attorney may represent a company after establishing eligibility to do so.¹⁵ The Decision further advised that since Style Car is no longer represented by counsel, should it wish to be represented by a non-attorney in this Proceeding, it must make a filing establishing that it is entitled to do so consistent with Rule 1201(b)(II) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, and § 13-1-127(2) and (2.3)(c), C.R.S., or it must be represented by counsel in this Proceeding.¹⁶

13. On February 6, 2023, Staff filed a confidential and public SOP.

14. Also on February 6, 2023, Mr. Gary VanDriel, a non-attorney, filed an SOP on Style Car's behalf. To date, Style Car has not established that it is entitled to be represented by a non-attorney in this Proceeding, and no new counsel has entered an appearance on its behalf. Style Car failed to heed the warnings in Decision No. R23-0032-I that it must either establish

¹² *Id.*

¹³ *Id.*

¹⁴ Decision No. R23-0032-I at 5-7 (mailed January 12, 2023).

¹⁵ *Id.* at 5.

¹⁶ *Id.* at 5-6.

that it may be represented by a non-attorney or have counsel enter an appearance on its behalf. As such, Style Car's SOP is disregarded.¹⁷

II. FACTUAL FINDINGS¹⁸

15. Mr. Gary VanDriel founded, owns, and manages Style Car, a Wyoming limited liability company.¹⁹ He is Style Car's member and chief executive officer (CEO).²⁰ Style Car operates out of Mr. VanDriel's residence in Fort Collins, Colorado, which is its primary place of business.²¹ Style Car owns Commission-issued luxury limousine Permit No. LL-03494 (permit), which first became effective on February 25, 2019.²²

16. Investigator Erin Haislett is a criminal investigator with the Public Utilities Commission, a position she held for approximately one year at the time of the hearing.²³ As a Commission Investigator, Ms. Haislett investigates complaints made to the Commission, conducts safety inspections and inspections on commercial motor vehicles.²⁴ Investigator Haislett has approximately eight to ten years of experience as an investigator.²⁵ Before working for the Commission, Investigator Haislett has around eight to ten years of investigatory experience, including as a property crimes investigator in Texas, and a criminal investigator with the Department of Defense and the United States Airforce.²⁶

¹⁷ See Rule 1201(b)(II), 4 CCR 723-1 and § 13-1-127(2) and (2.3)(c), C.R.S.,

¹⁸ Headers are for ease of reference only. Indeed, this Decision includes factual findings under different headers.

¹⁹ 12/12/22 Tr., 170: 10-18; Hearing Exhibit 101 at 1.

²⁰ 12/12/22 Tr., 69: 21-25-70: 1; Hearing Exhibit 102 at 3.

²¹ 12/12/22 Tr., 244: 1-4.

²² *Id.* at 69: 13-17; Hearing Exhibit 102 at 3.

²³ 12/12/22 Tr., 67: 12-20; 68: 2-13.

²⁴ *Id.* at 67: 23-25—68: 1.

²⁵ *Id.* at 68: 2-13.

²⁶ *Id.* at 68: 2-9.

17. Investigator Haislett began investigating Style Car after the Commission received a complaint filed on the Commission's website by Mr. Jason Tyndall in early December 2021.²⁷ As a result of her investigation, Investigator Haislett issued the 30-Count CPAN that initiated this Proceeding.²⁸

18. In the complaint, Mr. Tyndall stated that he was concerned that Style Car's vehicles did not have updated inspections, were not properly maintained, and most had problems with their brakes.²⁹ Investigator Haislett was assigned to the case on or around January 3, 2022, and spoke with Mr. Tyndall on January 6, 2022.³⁰ Mr. Tyndall, a mechanic, explained that Style Car asked him to come to its place of business to inspect and diagnose issues with vehicles in Style Car's fleet.³¹ Mr. Tyndall identified problems relating to brakes, slipping transmissions, and check engine lights, but it did not appear to him that Style Car planned to fix the vehicles.³² Without repairs, he believed that the vehicles were not safe to transport the public, so he submitted the complaint.³³ Mr. Tyndall saw an individual he knew as Ms. CJ Johnson drive a vehicle which he diagnosed as having a slipping transmission issue.³⁴ Mr. Tyndall suggested that Investigator Haislett speak with Mr. Dion Osborn, someone he knew to be a Style Car employee.³⁵

19. Investigator Haislett interviewed Mr. Osborn in early March 2022.³⁶ Mr. Osborn helped manage another company that Mr. VanDriel owned, Fly Away Shuttle Transportation

²⁷ *Id.* at 73: 18-24—74: 1-11.

²⁸ *Id.* at 69:68: 25—69: 1-2; Hearing Exhibit 119 at 1-8.

²⁹ 12/12/22 Tr., 74: 2-8.

³⁰ *See id.* at 74: 17-25—75: 1-2.

³¹ *Id.* at 75: 10-11; 76: 14-16.

³² *Id.* at 76: 16-20.

³³ *See id.* at 76: 20-21.

³⁴ *Id.* at 77: 13-23.

³⁵ *Id.* at 78: 5-9.

³⁶ *Id.* at 78: 21-24.

(FAST), and also worked for Style Car.³⁷ Mr. Osborn told Investigator Haislett that Style Car owned and operated four Lincolns, two limousines (a Cadillac and Lincoln), a Ford bus and a Sprinter bus.³⁸ Mr. Osborn suggested that Investigator Haislett speak with another potential witness, Ms. Shelby Wanamaker.³⁹

20. Investigator Haislett interviewed Ms. Wanamaker in early March 2022.⁴⁰ Ms. Wanamaker told her that she worked for Style Car in 2021, and that she experienced issues with the vehicles she operated such as lit check engine lights and brake problems almost resulting in an accident.⁴¹ Ms. Wanamaker relayed much of what she testified to during the hearing to Investigator Haislett, discussed in detail later. Most notably, Ms. Wanamaker told Investigator Haislett that she witnessed Ms. Johnson operate Style Car's vehicles to perform trips, and that Ms. Johnson's driver's license was inactive or not valid.⁴² Ms. Wanamaker provided Investigator Haislett the original report to that she pulled and printed on November 30, 2021 (her last day at Style Car) from Style Car's reservation system, titled "Style Car Service LLC Detailed Driver Payroll Report" (Hearing Exhibit 100) listing CJ Del Vecchio as the driver whose payroll records are displayed therein.⁴³ Investigator Haislett copied the original report (Hearing Exhibit 100), and gave the original back to Ms. Wanamaker.⁴⁴ Ms. Wanamaker told Investigator Haislett that Hearing Exhibit 100 is a record of the trips that Ms. Johnson performed for Style Car.

³⁷ *Id.* at 79: 3-5.

³⁸ *Id.* at 80: 11-22.

³⁹ *Id.* at 81: 2-4; 78: 12-15.

⁴⁰ *Id.* at 81: 5-7.

⁴¹ *Id.* at 81: 8-11; 83: 17-25.

⁴² *Id.* at 84: 16-25.

⁴³ *Id.* at 49: 21-25—50: 1-6; 59: 4-8; 85: 7-10. *See* Hearing Exhibit 100.

⁴⁴ 12/12/22 Tr., 49: 21-25—50: 1-6.

21. After Ms. Wanamaker gave her Hearing Exhibit 100, Investigator Haislett researched Ms. Johnson using a law enforcement search engine (called TLO).⁴⁵ The TLO database includes names, previous names, aliases, cybersecurity numbers, previous addresses, vehicles currently owned, past owned vehicles, employment data, phone numbers, e-mails, possible associates, and the names of relatives associated with the individual whose name is searched.⁴⁶ Investigator Haislett regularly used this same database in the course of police investigations (when she was a police officer); she also explained that government investigators commonly use this same database.⁴⁷ When Investigator Haislett input the name “CJ Johnson” into the database, the last name Del Vecchio appeared as an alias or a “previously known as” name.⁴⁸ She also found that the last name Del Vecchio is the same last name as one of Ms. Johnson’s family members.⁴⁹

22. Investigator Haislett looked into the allegation that Ms. Johnson did not have a valid driver’s license.⁵⁰ She searched for Ms. Johnson on the Colorado Department of Revenue, Division of Motor Vehicles (DMV) database and learned that her license was revoked.⁵¹ Investigator Haislett requested and received a certified copy of Ms. Johnson’s driving record from the DMV dated April 26, 2022, confirming that Ms. Johnson’s license was revoked on August 19, 2019 for a “Dui Conviction” and on August 20, 2019 for a “refusal.”⁵² Ms. Johnson has to meet numerous requirements to have her license reinstated.⁵³ As of the time of the hearing,

⁴⁵ *Id.* at 85: 14-18.

⁴⁶ *Id.* at 85: 22-25—86: 1-5.

⁴⁷ *Id.* at 86: 12-21.

⁴⁸ *Id.* at 86: 24-25.

⁴⁹ *Id.* at 86: 25—87: 1-3.

⁵⁰ *Id.* at 102: 12-15.

⁵¹ *Id.* at 102: 17-20.

⁵² *Id.* at 102: 18-20; Hearing Exhibit 106 at 2-4.

⁵³ Hearing Exhibit 106 at 4 (Reinstatement Requirements).

Ms. Johnson's license was still revoked.⁵⁴ Because Ms. Johnson's DMV record states that her license was revoked for a DUI conviction, Investigator Haislett decided to look further into Ms. Johnson's criminal history.

23. She discovered that Ms. Johnson plead guilty and was convicted of driving while ability impaired (DWAI) on November 5, 2019.⁵⁵ Investigator Haislett requested and received a certified copy of the police report, arrest record, and conviction relating to this offense. Those records establish that on June 20, 2019, the Fort Collins Police Services (police) went looking for Ms. Johnson based on a BOLO (Be-On-The-Lookout) that was issued due to reported concerns about Ms. Johnson's safety.⁵⁶ The arresting officer found Ms. Johnson at approximately 11:15 p.m. that evening in a black Lincoln Town Car that was still running, parked across three parking spaces in a lot designated as "Day Use Area only."⁵⁷ When speaking with Ms. Johnson, the arresting officer smelled a strong odor of alcohol on her breath.⁵⁸ Ms. Johnson told the officer she drank alcohol a few hours earlier; the officer observed several empty "shooter" bottles of hard alcohol in the vehicle.⁵⁹ The officer asked Ms. Johnson to perform roadside maneuvers to determine if she was safe and sober to drive. Ms. Johnson refused to perform roadside maneuvers and a chemical test.⁶⁰ The police arrested and charged Ms. Johnson with driving under the influence (DUI), per § 42-4-1301(1)(a), C.R.S.; driving under the influence per se, per § 42-4-1301(2)(a), C.R.S.; resisting arrest, per § 18-8-103, C.R.S.; and obstructing a police officer, per § 18-8-104, C.R.S.⁶¹

⁵⁴ 12/12/22 Tr., 105: 18-15.

⁵⁵ *Id.* at 103: 1-5. *See* Hearing Exhibit 105 at 6-7.

⁵⁶ Hearing Exhibit 105 at 1.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

24. Before leaving the scene, the police contacted Mr. VanDriel to let him know that the black Lincoln Town Car that Ms. Johnson was found in would be towed; he came to the scene and retrieved the vehicle (which was his or Style Car's vehicles).⁶² On November 5, 2019, the court approved a plea agreement for Ms. Johnson to plead guilty to DWAI in violation of § 42-4-1301(1)(b), C.R.S., resulting in a conviction of that charge on the same date.⁶³

25. Investigator Haislett also researched the Commission's fingerprint tracking system to determine Ms. Johnson's driving status with the Commission. She learned that the Commission disqualified Ms. Johnson from driving via a letter dated November 19, 2019.⁶⁴ On March 13, 2020, Ms. Johnson responded to the disqualification letter, explaining that she did not receive the letter until January 27 or 28, 2020.⁶⁵ She asked the Commission to reverse its decision disqualifying her from driving. In the letter, Ms. Johnson states that she "love[s] the work that . . . [she does] as a chauffeur," that her boss is "aware of the circumstances," and "has no problem with it."⁶⁶ Ms. Johnson states that her boss "understands the situation . . . and knows that losing . . . [her] job would be devastating," and that she included a letter from her boss.⁶⁷ She explains that she is an "integral part of the business, as clients request [her] as their private driver, which is a very important personal part of the business that the company offers."⁶⁸ She also states that she pays "the additional amount that the insurance increased due to [her]

⁶² 12/12/22 Tr., 247: 22-25—248: 1-3.

⁶³ Hearing Exhibit 105 at 2-7.

⁶⁴ *Id.* at 2; 12/12/22 Tr., 107: 1-6. The Commission's fingerprint tracking system shows that the Commission generated the letter dated November 19, 2019 twice, once on November 18, 2019 and again on January 24, 2020. Hearing Exhibit 107 at 1. This is consistent with Ms. Johnson's letter to the Commission where she says that she did not receive the disqualification letter until January 27 or 28, 2020. *Id.* at 3.

⁶⁵ Hearing Exhibit 107 at 3; 12/12/22 Tr., 108: 4-7.

⁶⁶ Hearing Exhibit 107 at 3.

⁶⁷ *Id.*

⁶⁸ *Id.*

mishap.”⁶⁹ Ms. Johnson asks that the Commission to reverse its initial decision and “give [her] back [her] driving privilege to continue employment.”⁷⁰

26. True to her word, Ms. Johnson included a letter from Mr. VanDriel with her March 13, 2020 correspondence to the Commission. In that letter, Mr. VanDriel, speaking on behalf of Style Car, states that “CJ Johnson has been employed by Style Car Service since formation, both as a driver and as admin help.”⁷¹ Mr. VanDriel also states that Style Car’s vehicles have dash-cameras, and that after reviewing random videos (of her driving), he never saw her break any traffic laws.⁷² In the letter, Mr. VanDriel also states that Ms. Johnson was in his vehicle at the time of her arrest, and that he “would like to continue employing her as a driver if you will allow her exemption.”⁷³

27. Investigator Haislett reached out to Mr. VanDriel on March 1, 2022 via email.⁷⁴ She explained that the Commission received a complaint against Style Car; that the Commission was investigating the complaint; and that Style Car is required to provide (for the preceding six-months) items that should be in Style Car’s vehicle maintenance file, such as periodic inspections, preventative maintenance plans, the maintenance plan, service records, and the current mileages for the vehicles Style Car operates.⁷⁵ Mr. VanDriel provided periodic

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 4. The letter includes Style Car’s logo and includes “Gary VanDriel Style Car Service LLC” in the signature block. *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ 12/12/22 Tr., 87: 5-11.

⁷⁵ *Id.* at 87: 13-23; 88: 12-16.

inspections, a maintenance plan, and mileages for two vehicles, but did not provide service reports, a preventative maintenance plan, and the correct periodic inspections.⁷⁶

28. Investigator Haislett called Mr. VanDriel to follow up on the documents that she still needed.⁷⁷ She testified that Mr. VanDriel became argumentative and told her “not to get . . . [her] pants in a wad regarding the inspections.”⁷⁸ Given the information Investigator Haislett gathered from witnesses during her investigation and that Mr. VanDriel failed to provide the documents she requested, Investigator Haislett decided to conduct a Safety and Compliance Review (SCR) on Style Car.⁷⁹ This would allow her go to Style Car’s offices and see for herself what vehicles were being used.⁸⁰ Indeed, an SCR includes a safety walk around any vehicles, checking the license plate markings for each vehicle, and an audit of vehicle maintenance and driver qualification files.⁸¹

29. On March 9, 2022, Investigator Haislett called Mr. VanDriel to inform him that she would be performing an SCR; they agreed it would be conducted on March 14, 2022.⁸² Mr. VanDriel told Investigator Haislett that if he received a trip request for the date and time of SCR, he would accept the trip, regardless of the SCR.⁸³ Investigator Haislett explained that a requirement of Style Car’s permit is that its vehicles must be present for the SCR.⁸⁴

⁷⁶ *Id.* at 88: 1-3; 88: 10-11; 89: 19-24. The periodic inspection documentation that Style Car provided indicated that the inspection was done on March 2, 2022, one day after Investigator Haislett requested that documentation. Hearing Exhibit 117. *See* 12/12/22 Tr., 89: 5-10.

⁷⁷ 12/12/22 Tr., 89: 14-16.

⁷⁸ *Id.* at 90: 1-5.

⁷⁹ *Id.* at 90: 12-16; 91: 5-10.

⁸⁰ *Id.* at 91: 11-15.

⁸¹ *Id.* at 90: 22-25.

⁸² *Id.* at 91: 16-25—92: 1-5.

⁸³ *Id.* at 92: 2-5.

⁸⁴ *Id.* at 92: 6-8.

30. In response to Mr. VanDriel's question about what the SCR would entail, Investigator Haslett told him it would be similar to last SCR in 2021.⁸⁵ Mr. VanDriel responded that he was not present for that and that his "former business partner," Ms. CJ Johnson, attended that inspection, but that she no longer worked for the Company.⁸⁶ In follow up, Investigator Haislett sent an email to Mr. VanDriel listing everything she wanted to inspect on March 14, 2022, including all of the documents she would audit, both for drivers and Style Car's vehicles.⁸⁷

31. Before the SCR, Investigator Haislett printed photos of five vehicles on Style Car's website shown under text that reads "Our actual vehicles—all DOT inspected, PUC registered."⁸⁸ The website identifies the following Style Car vehicles available for transportation services with rates for each vehicle: a Lincoln MKT, a Cadillac limousine, a Lincoln Limousine, and a Mercedes Sprinter.⁸⁹ This list of vehicles and rates align with the vehicle photos on Style Car's website, except that the list does not include the 22-passenger coach vehicle depicted in photos of Style Car's vehicles on its website.⁹⁰ She also found photos of Style Car's vehicles posted on Yelp that match some of the vehicles advertised on Style Car's website.⁹¹

32. Investigator Haislett searched the DMV's database to identify the vehicles registered to Style Car.⁹² The DMV's records identified the following seven vehicles registered to Style Car: two 2014 Lincoln MKTs; a 2012 Lincoln MKT; a 2011 Lincoln MKT; a 2015

⁸⁵ *Id.* at 92: 8-11.

⁸⁶ *Id.* at 92: 12-19.

⁸⁷ *Id.* at 92: 20-25—93: 1-3.

⁸⁸ Hearing Exhibit 111 at 1 (emphasis in original); 12/12/22 Tr., 118: 4-18.

⁸⁹ Hearing Exhibit 111 at 8.

⁹⁰ *Id.* at 1-5 and 8.

⁹¹ 12/12/22 Tr., 121: 21-25—122: 1-12. Yelp includes photos of a Lincoln MKT (or Crossover), black Cadillac limousine, and a white Lincoln limousine that are also in vehicle photos on Style Car's website. *Compare* Hearing Exhibit 112 at 1, 3, 7, and 9 to Hearing Exhibit 111 at 1-3.

⁹² *See* 12/12/22 Tr., 116: 2-10; Hearing Exhibit 110.

Mercedes Sprinter 3; a 2018 ELKD E450 Econoline; and a 2010 “CADI” Professional Chassis.⁹³

The license plates and vehicle identification numbers (VINs) for the vehicles registered to Style Car match the license plates and VINs for the vehicles identified in Counts 1 to 7.⁹⁴

33. Investigator Haislett performed the SCR as planned on March 14, 2022. Ms. Johnson was present for the SCR on behalf of Style Car.⁹⁵ Mr. VanDriel was not present. Since Mr. VanDriel had just told her that Ms. Johnson no longer worked for Style Car, Investigator Haislett asked Ms. Johnson to describe her role with Style Car.⁹⁶ Ms. Johnson told Investigator Haislett that she was Style Car’s bookkeeper, and not a driver.⁹⁷ Investigator Haislett testified that Ms. Johnson did not appear physically impaired or “deeply unhealthy” during the SCR, and that at no point did Ms. Johnson tell Investigator Haislett that she had serious health issues that prevented her from driving.⁹⁸

34. Four vehicles were present at the SCR; two of these vehicles were presented to Investigator Haislett as being used in the course of Style Car’s business.⁹⁹ She inspected these two vehicles and completed a Driver Vehicle Inspection Report (DVIR) documenting that inspection.¹⁰⁰ The DVIR identifies the two inspected vehicles as a 2011 Lincoln MKT with VIN ending in 2843 and a 2012 Lincoln MKT, with VIN ending in E545.¹⁰¹

⁹³ Hearing Exhibit 110 and 110C at 1-8.

⁹⁴ Compare Hearing Exhibits 110C at 1-8 and 119 at 1-2. See 12/12/22 Tr., 117: 1-4.

⁹⁵ 12/12/22 Tr., 93: 16-18.

⁹⁶ *Id.* at 93: 16-23.

⁹⁷ *Id.* at 93: 24-25—94: 1-2.

⁹⁸ *Id.* at 262: 8-16.

⁹⁹ *Id.* at 94: 17-19; 95: 9-13.

¹⁰⁰ Hearing Exhibit 118; 12/12/22 Tr., 147: 14-25—148: 1-18. See *id.* at 96: 12-24.

¹⁰¹ Hearing Exhibit 118 at 1-2.

35. As a result of her inspection, Investigator Haislett determined that one of the vehicles did not have a front license plate, did not have the periodic inspection inside the car, and had expired registration; that the other vehicle had markings only on the back, and did not have the periodic inspection or insurance in the car; and that neither vehicle had the required Commission-issued vehicle identification decals (referred to as stamps) affixed to their windshields.¹⁰²

Investigator Haislett questioned Ms. Johnson about the vehicle identification stamps missing from these two vehicles; Ms. Johnson responded that Mr. VanDriel did not like the look of the stamp, but that two stamps had been purchased.¹⁰³ Ms. Johnson produced a receipt showing that two stamps were purchased one day before the SCR, on March 13, 2022.¹⁰⁴

36. Investigator Haislett later determined that the VIN number (ending 2843) on the 2011 Lincoln MKT that she inspected did not match any VIN numbers of vehicles covered by Style Car's insurance policy in effect at the time of the inspection, and that the 2012 Lincoln MKT's VIN number did not match the VIN number from Style Car's inspection report.¹⁰⁵

¹⁰² 12/12/22 Tr., 96: 12-24.

¹⁰³ *Id.* at 97: 3-13.

¹⁰⁴ *Id.* at 97: 11-13.

¹⁰⁵ *Id.* at 149: 8-20. *Compare* Hearing Exhibits 118 at 2, 116 and 116C at 2, and 117 at 3-6.

37. During the SCR, Ms. Johnson also presented Investigator Haislett with Style Car's driver qualification files for Mr. VanDriel and Mr. Nathan Harris.¹⁰⁶ Because Mr. Harris's driver file did not identify his start date, Investigator Haislett asked Ms. Johnson for this information; she responded that he began driving on approximately November 5, 2021.¹⁰⁷ After the SCR, Investigator Haislett researched whether Mr. Harris was qualified to drive for Style Car. She began by researching his name in the Commission's fingerprint tracking database to determine whether he submitted his fingerprints for a criminal background check as required.¹⁰⁸ She found nothing.¹⁰⁹ Two days later, Mr. VanDriel sent her a receipt, dated March 16, 2022, from a fingerprint background check provider indicating that Mr. Harris submitted his fingerprints for a background check.¹¹⁰ On March 25, 2022, the Commission qualified Mr. Harris to drive.¹¹¹

38. The driver records that Ms. Johnson provided during the SCR were incomplete and had to be supplemented later. Among the missing documents were the last page of Mr. Harris's employment application, a copy of his driver's license, his previous or expired medical certificate, and his fingerprint qualification status.¹¹² Mr. Harris's employment file did include a copy of his current medical certificate, which showed that he obtained the certificate on March 12, 2022, two days before the SCR.¹¹³ Style Car's records for Mr. Harris also include a "Driver's Time Record" detailing the dates, times, and the number of hours that Mr. Harris drove

¹⁰⁶ 12/12/22 Tr., 98: 2-25—99: 1-12.

¹⁰⁷ *Id.* at 100: 12-18.

¹⁰⁸ *Id.* at 110: 19-25—111: 1-2.

¹⁰⁹ *See* Hearing Exhibit 108 at 1-2.

¹¹⁰ *Id.* at 3. 12/12/22 Tr., 111: 17-25—112: 1-2.

¹¹¹ 12/12/22 Tr., 112: 8-11; Hearing Exhibit 108 at 4.

¹¹² 12/12/22 Tr., 99: 1-3; 100: 20-25.

¹¹³ *Id.* at 101: 5-10.

for Style Car in February 2022.¹¹⁴ That record indicates that Mr. Harris drove for Style Car on 22 separate days in February 2022, for a total of 106 driving hours.¹¹⁵

39. Investigator Haislett reviewed Commission records on Style Car's annual permit renewal applications. Because luxury limousine permits are valid for one year, they have to be renewed annually; as such, the Commission has approved several Style Car renewal applications since it began operating in 2019.¹¹⁶ Style Car's 2021-2022 permit expired on April 12, 2022.¹¹⁷ Ms. Johnson submitted an application to renew Style Car's permit for 2022-2023 on April 19, 2022.¹¹⁸ That application was approved, rendering Style Car's permit effective on May 23, 2022.¹¹⁹

40. Investigator Haislett also reviewed Commission records on Style Car's annual vehicle identification payments. She explained that the annual vehicle identification fees essentially register the vehicles with the Commission so that the Commission knows how many vehicles the carrier is using.¹²⁰ After the carrier pays the annual fee for each vehicle it owns, the Commission gives the carrier a decal commonly referred to as "stamps" that the carrier must place in the vehicle's windshield.¹²¹ Since it first started operating in 2019, Style Car has paid vehicle identification fees for two vehicles.¹²² As noted, Style Car presented proof during the

¹¹⁴ Hearing Exhibit 109 at 1.

¹¹⁵ *Id.*

¹¹⁶ 12/12/22 Tr., 70: 7-8; Hearing Exhibit 102 at 3.

¹¹⁷ *See* 12/12/22 Tr., 70: 9-11; 72: 17-19. *See also*, Hearing Exhibit 102 at 3.

¹¹⁸ Hearing Exhibit 103 at 1; Hearing Exhibit 102 at 3; 12/12/22 Tr., 70: 2-6.

¹¹⁹ Hearing Exhibit 104 at 1; 12/12/22 Tr., 73: 4-6.

¹²⁰ *See* 12/12/22 Tr., 70: 12-21.

¹²¹ *See id.* at 70: 12-21; Rule 6102(a) of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6. All references in this Decision to Rules in the 6000 series are to these same Rules.

¹²² *See* 12/12/22 Tr., 70: 12-25.

SCR that it purchased two vehicle stamps on March 13, 2022. In prior years, Style Car purchased stamps on January 29, 2021, March 24, 2020, and February 25, 2019.¹²³

41. Investigator Haislett researched Style Car's insurance policy to confirm that Style Car had effective coverage for its vehicles.¹²⁴ Progressive Insurance provided a Certificate of Insurance for Style Car showing that Style Car's policy covered the following two vehicles from October 27, 2021 to October 27, 2022: a 2011 Lincoln MKT with a VIN ending 3587 and a 2012 Lincoln MKT with a VIN ending 4313.¹²⁵ Neither of these covered vehicles have a VIN number that matches the VIN numbers of the vehicles that Investigator Haislett inspected during the SCR.¹²⁶

42. As a part of her investigation, on or about March 9, 2022, Investigator Haislett also submitted a request for transportation solely within Colorado for a wedding, using an alias, Maddy Hayes through Style Car's website to determine if Style Car was operating the vehicles that they were advertising.¹²⁷ In her Style Car web inquiry, Investigator Haislett asked about rates and services, and indicated that she would need multiple vehicles for a wedding.¹²⁸ In response to her web inquiry, she received emails from both Mr. VanDriel and Ms. Johnson; those emails were received between March 9 and 13, 2022.¹²⁹ Mr. VanDriel sent only one email, with Ms. Johnson sending the rest, all from "cj@stylecarservices.com."¹³⁰ In Mr. VanDriel's email, he notes that Style Car has two Lincoln limousines that seat eight people (one white and one black);

¹²³ Hearing Exhibit 102 at 4. *See* 12/12/22 Tr., 71: 1-6.

¹²⁴ *See* 12/12/22 Tr., 143: 12-17.

¹²⁵ Hearing Exhibit 116 at 2.

¹²⁶ *Compare* Hearing Exhibits 116 and 116C at 2 and 118 at 1-2. Style Car's proof of financial responsibility on file with the Commission (called a Form E) does not identify the vehicles covered by its policy. *See* Hearing Exhibit 203.

¹²⁷ 12/12/22 Tr., 129: 3-25—130: 1-7. *See* Hearing Exhibit 113 at 1 (website submission).

¹²⁸ *Id.* at 129: 16-22.

¹²⁹ Hearing Exhibit 113 at 2-13.

¹³⁰ *Id.* at 2-12.

a Cadillac limousine that seats four; and several Lincoln sedans that Style Car could use for the requested airport transportation.¹³¹

43. In six of Ms. Johnson's emails to Investigator Haislett's alias, her name is shown as "CJ Owner/Chauffeur," just above Style Car's logo and contact information.¹³² Ms. Johnson also provided the estimate for the requested transportation and included her personal cell phone number on it.¹³³ The estimate proposes to use the following vehicles: two Lincoln MKTs, described as "MKT1" and "MKT4;" a white limousine; a black limousine; and another identified as "limo."¹³⁴ In several emails, Ms. Johnson makes statements about work she just did as a driver. For example, in her March 11, 2022 9:12 p.m. email, Ms. Johnson states "I forgot to tell you I had an overnight run for a customer to Colorado springs [*sic*] and I just got back. I thought I would have been able to have time to work on the quote down there, but unfortunately with his flight late and it being late I didn't have the opportunity."¹³⁵ In Ms. Johnson's March 13, 2022 6:03 p.m. email, she states, "The trip to Co Springs took longer than expected. It was for a regular Dr who comes to Colorado a few times a year and we are his 24/7 on call transportation when he is here. We like to spoil and take care of every detail for each customer."¹³⁶

44. Investigator Haislett enlisted Commission Investigators Joe Potts and Lloyd Swint to contact Style Car for service estimates using aliases.¹³⁷ On or around March 11, 2022, using the alias Craig Reeves, Investigator Potts submitted a request through Style Car's website for transportation that could accommodate a party of 12 to 20 passengers for transportation solely

¹³¹ *Id.* at 2.

¹³² *Id.* at 3, 5, 7, 8, 10, 11.

¹³³ *Id.* at 10-13.

¹³⁴ *Id.* at 13.

¹³⁵ *Id.* at 6.

¹³⁶ *Id.* at 10.

¹³⁷ *See* 12/12/22 Tr., 135: 17-25—136: 1; 140: 15-22.

within Colorado.¹³⁸ In response, Mr. VanDriel stated that Style Car has two vehicle options: a 12-passenger Mercedes Sprinter and a 22-passenger “luxury coach” that is not a party bus.¹³⁹ Mr. VanDriel also states that pictures of the luxury coach can be found on Style Car’s website.¹⁴⁰

45. On or about May 10, 2022, using the alias Tony Missler, Investigator Swint submitted a request through Style Car’s website for transportation solely with Colorado that would take place on May 12, 2023 using a Lincoln Crossover or limousine, and a second Lincoln limousine to transport various family members to the airport.¹⁴¹ In response, Mr. VanDriel stated that Style Car has “Lincoln stretch limos that seat 8, so we could pick-up everyone in one vehicle.”¹⁴²

46. On May 31, 2022, after completing her investigation, Investigator Haislett issued the CPAN in this Proceeding alleging 30 Counts of violating statutes or Commission rules.¹⁴³ On June 7, 2022, Investigator Haislett served the CPAN on Style Car by USPS certified mail.¹⁴⁴

47. Ms. Shelby Wanamaker testified on behalf of Staff. Ms. Wanamaker explained that she was originally hired to work for FAST starting in August 2021 (as a driver), then shifted to working in the office for both FAST and Style Car in October 2021.¹⁴⁵ Ms. Wanamaker initially drove for Style Car, and when she moved to office work, she scheduled trips, charged passengers, and did other office-related work for both FAST and Style Car.¹⁴⁶

¹³⁸ Hearing Exhibit 114 at 1-2.

¹³⁹ *Id.* at 1.

¹⁴⁰ *Id.*

¹⁴¹ Hearing Exhibit 115 at 3-6.

¹⁴² *Id.* at 1-3.

¹⁴³ Hearing Exhibit 119 at 7.

¹⁴⁴ Hearing Exhibits 119 at 7 and 120 at 1-2; 12/12/22 Tr, 150: 6-18.

¹⁴⁵ 12/12/22 Tr., 21: 4-7; 36: 22-25—37: 1; 40: 11-15; 57: 14-24. Ms. Wanamaker also testified that she had a dispute with FAST about wages owed and filed a complaint with the Department of Labor and Employment. *Id.* at 52: 1-6.

¹⁴⁶ *Id.* at 21: 8-11; 36: 25—37: 1; 57: 14-24.

As a part of her office work for Style Car, Ms. Wanamaker was taught how to use Style Car's software reservation system to book transportation and was expected to use that system as part of her job.¹⁴⁷ When someone called seeking transportation from Style Car, Ms. Wanamaker took down and input relevant information into Style Car's reservation system, such as the pick-up and drop-off locations, the number of passengers, the vehicle requested, and the customer's credit card information.¹⁴⁸ She would then use Style Car's reservation system to assign a driver to the trip.¹⁴⁹ She also explained that FAST has a different reservation system than Style Car, and that she also booked trips for FAST.¹⁵⁰ She was under the impression that both Mr. VanDriel and Ms. Johnson owned Style Car.¹⁵¹

48. Ms. Johnson asked Ms. Wanamaker to provide a copy of her driver's license; but no one at Style Car asked her for a copy of her medical certification, nor was she informed she would need one to drive for Style Car.¹⁵²

49. Ms. Wannamaker believes that Style Car owns eight or nine vehicles, that is, four Lincoln MKTs or sedans, two Lincoln limousines, a Cadillac limousine, and a Mercedes bus.¹⁵³ She explained that Style Car identified its four Lincoln MKTs by numbering them MKT 1 to 4.¹⁵⁴ Ms. Wanamaker conceded that she never saw records about these vehicles, but explained that when she booked trips for Style Car using its reservation system, the list of vehicles available to

¹⁴⁷ *Id.* 23: 17-22.

¹⁴⁸ *Id.* at 23: 5-14.

¹⁴⁹ *Id.* at 23: 8-14.

¹⁵⁰ *Id.* at 57: 11-18.

¹⁵¹ *Id.* at 19: 10-21; 19: 22-25—20: 1-3.

¹⁵² *Id.* at 29: 11-17; 27: 21-23.

¹⁵³ *Id.* at 24: 11-23. Ms. Wanamaker also testified that she was not sure that the party bus was used for Style Car's operations, but she did not believe that Style Car would purchase that vehicle for the shuttle company, FAST. *Id.* at 55: 17-22.

¹⁵⁴ *Id.* at 56: 1-17.

assign to trips included the vehicles described above.¹⁵⁵ While Ms. Wanamaker was working for Style Car, she drove two of these vehicles (Mercedes bus and a Lincoln MKT) for Style Car, and witnessed Style Car drivers using the vehicles that she did not use as a driver.¹⁵⁶

50. Ms. Wanamaker observed Ms. Johnson driving vehicles for Style Car, that is, a Lincoln MKT and the Lincoln limousines.¹⁵⁷ Ms. Wanamaker explained that the trips that Ms. Johnson drove were assigned in Style Car's reservation system to the driver name CJ Del Vecchio.¹⁵⁸ Although she was not in the vehicles with Ms. Johnson and therefore did not see Ms. Johnson pick-up or drop-off customers, Ms. Wanamaker knew that Ms. Johnson drove the trips assigned to CJ Del Vecchio because she booked many of those trips, and when Ms. Johnson left in a Style Car vehicle to perform a trip, it was one assigned to CJ Del Vecchio.¹⁵⁹ Put differently, if the person Ms. Wanamaker knew to be Ms. Johnson conducted a trip, it was always in the name CJ Del Vecchio in Style Car's reservation system.¹⁶⁰ During her time with Style Car, Ms. Wanamaker identified CJ Del Vecchio and Mr. VanDriel as the only driver names consistently in Style Car's reservation system.¹⁶¹ Ms. Wanamaker never came across other employees with the name "CJ," and there was no CJ Johnson in Style Car's system.¹⁶²

51. When they were getting to know each other as co-workers, Ms. Johnson told Ms. Wanamaker that her driver's license was suspended or that she did not have one, and that Ms. Johnson had a situation relating to a DUI that she did not believe was accurate.¹⁶³ Around and

¹⁵⁵ *Id.* at 55: 1-11. She also testified that there was a Chevy bus, but it was used for different things, and she was not sure if it was a Style Car vehicle. *Id.* 24: 24-25—25: 1-6.

¹⁵⁶ *Id.* 25: 7-24.

¹⁵⁷ *Id.* at 30: 16-24.

¹⁵⁸ *Id.* at 29: 23-25—30: 1-3; 54: 6-8; 61: 5-6.

¹⁵⁹ *Id.* at 29: 23-25—30: 1-7; 54: 6-8; 61: 5-6; 63: 3-11.

¹⁶⁰ *Id.* at 61: 5-8.

¹⁶¹ *Id.* 30: 3-11.

¹⁶² *Id.* at 30: 12-15; 54: 6-10; 60: 20-23; 61: 5-19.

¹⁶³ *Id.* at 32: 21-25—33: 1-4.

after the time of this conversation, Ms. Wanamaker observed Ms. Johnson using Style Car vehicles to perform trips for Style Car.¹⁶⁴

52. Ms. Wanamaker left Style Car because she did not like the work environment, which she described as disrespectful.¹⁶⁵ She admitted that she did not leave Style Car on the best of terms, stating that she became “salty” toward her employer when things were going downhill with Style Car.¹⁶⁶ On her last day with Style Car (November 30, 2021), Ms. Wanamaker pulled and printed Hearing Exhibit 100. At the time, Ms. Wanamaker had no plans or ill intentions as to what she would do with the report; she printed it so that she would have proof that Ms. Johnson should not have been driving for Style Car in case something came up.¹⁶⁷

53. Ms. Wanamaker provided additional background on how reports like those in Hearing Exhibit 100 were used at Style Car while she worked there. When someone searches for an individual driver’s trips and driving record through Style Car’s system, the system creates a driver payroll report like Hearing Exhibit 100; such reports were more often than not used for tracking a driver’s trips.¹⁶⁸ She explained that Style Car also uses the reports like the one in Hearing Exhibit 100 to determine how much a driver should receive as a tip that a customer may have added (in addition to their standard wage).¹⁶⁹

54. Mr. VanDriel was the only witness for Style Car. As noted, in addition to Style Car, Mr. VanDriel also owned FAST, a Wyoming limited liability company that operated a shuttle service between northern Colorado and the airport from November 2020 to February

¹⁶⁴ *Id.* at 33: 8-12.

¹⁶⁵ *Id.* at 20: 19-25.

¹⁶⁶ *Id.* at 61: 23-25—62: 1.

¹⁶⁷ *Id.* at 61: 22-25—62: 1-7.

¹⁶⁸ *See id.* at 43: 8-11; 43: 24-25—44: 1-4.

¹⁶⁹ *See id.* at 43: 11-15; 43: 24-25—44: 1-3.

2022.¹⁷⁰ Mr. VanDriel managed FAST with help from Ms. Johnson.¹⁷¹ FAST has been shut down and is no longer operating.¹⁷² Mr. VanDriel testified that Ms. Wanamaker was hired to work for FAST; that she still worked for FAST when she transitioned to office work; that she always worked for FAST; and that she was not authorized to be in Style Car's reservation system.¹⁷³ Mr. VanDriel also testified that Ms. Wanamaker may have answered the phone for Style Car.¹⁷⁴

55. Mr. VanDriel repeatedly disputed the accuracy of Hearing Exhibit 100.¹⁷⁵ He testified that Hearing Exhibit 100 is not accurate; that Ms. Wannamaker did not have access to Style Car's system from which the record would have been pulled; and implied that Ms. Wanamaker fabricated or falsified the record.¹⁷⁶ He also testified that Ms. Johnson did not perform any of the trips in Hearing Exhibit 100 (or in the CPAN); that he does not know where the name CJ Del Vecchio came from; and that there has never been anyone with that name in Style Car's system.¹⁷⁷ He testified that he had never heard the word or name Del Vecchio and that the name did not sound familiar at all to him.¹⁷⁸

56. Mr. VanDriel explained that he is the only person authorized to add driver names into Style Car's reservation system.¹⁷⁹ The only explanation that Mr. VanDriel provided as to why Hearing Exhibit 100 references CJ Del Vecchio is that the document "could easily be photoshopped."¹⁸⁰

¹⁷⁰ *Id.* at 79: 6-9; 171: 15-24.

¹⁷¹ *Id.* at 174: 9-13.

¹⁷² *Id.* at 171: 25—172: 1-3.

¹⁷³ *Id.* at 174: 21-25—175: 1-4; 176: 5-12.

¹⁷⁴ *Id.* at 176: 8-11.

¹⁷⁵ *See e.g., id.* at 181: 4-8; 216: 22-25—217: 1-6; 218: 20-23; 219: 11-17.

¹⁷⁶ *Id.* at 176: 10-15; 185: 6-13.

¹⁷⁷ *Id.* at 180: 2-3; 181: 8-12; 183: 14-21.

¹⁷⁸ *Id.* at 179: 23-24; 180: 21-22.

¹⁷⁹ *Id.* at 250: 24-25—251: 1-5.

¹⁸⁰ *Id.* at 216: 22-25—217: 1-6.

57. Mr. VanDriel explained that he has known Ms. Johnson for almost 15 years, and that she is his ex-girlfriend, helper, and roommate.¹⁸¹ Ms. Johnson lives with Mr. VanDriel in his home; he is her caretaker and medical power of attorney.¹⁸² Mr. VanDriel testified that as long as he has known Ms. Johnson, she has never gone by the name Del Vecchio, and that Ms. Johnson had a prior married name that was “an Italian name” but does not know the name.¹⁸³

58. Mr. VanDriel also contests allegations that Ms. Johnson performed the trips in Hearing Exhibit 100 (and the CPAN) because she is physically incapable of driving.¹⁸⁴ Mr. VanDriel testified that Ms. Johnson “isn’t employed. She hasn’t been in years, because of her medical disability. She can’t drive. She physically can’t drive. She physically, basically can’t do anything” due to side effects from a 2011 surgery that completely disabled her.¹⁸⁵ He also testified that for the last several years, Ms. Johnson occasionally answers the phones for Style Car.¹⁸⁶ He testified that Ms. Johnson experiences side effects that put her an immense amount of pain and causes her oxygen levels to drop so low that she becomes “loopy” or passes out.¹⁸⁷ He testified that even moving a steering wheel (to drive) would cause Ms. Johnson too much pain; that closing a car door is difficult for her; and that she cannot even lift a gallon of milk (let alone a suitcase).¹⁸⁸ He added that he has attended all of Ms. Johnson’s doctor appointments in the last ten years because she cannot remember what is discussed during the appointments.¹⁸⁹

¹⁸¹ *Id.* at 176: 24-25—177: 1-5.

¹⁸² *Id.* at 177: 11-13.

¹⁸³ *Id.* at 179: 18-21; 180: 16-23.

¹⁸⁴ *See id.* at 177: 15-18; 179: 13-15; 182: 15-18.

¹⁸⁵ *Id.* at 177: 14-18.

¹⁸⁶ *Id.* at 255: 13-19.

¹⁸⁷ *Id.* at 178: 4-9.

¹⁸⁸ *Id.* at 179: 9-17.

¹⁸⁹ *Id.* at 178: 21-24.

59. Mr. VanDriel agreed that he wrote the letter in Hearing Exhibit 107 asking the Commission to reinstate Ms. Johnson's driving privileges.¹⁹⁰ While he could not recall exactly when he wrote it, he testified that he wrote it within a few days of March 13, 2020, the date on Ms. Johnson's letter to the Commission.¹⁹¹ He testified that his letter was inartful, and that when he wrote that Ms. Johnson "has been employed by Style Car Service since formation, both as a driver and as admin help," he really meant that she was employed as a driver "at one point in time," not that she was currently a driver.¹⁹² He also testified that she drove for Style Car for "about the first month" after it was formed, and that she stopped driving when she got her DUI offense.¹⁹³

60. Despite this testimony and the language in his letter, Mr. VanDriel also testified that Ms. Johnson did not drive for Style Car and that he only requested a reversal of her driver disqualification as a "just in case type of thing" if last minute trips came up for a "short drive."¹⁹⁴ When confronted with his testimony that Ms. Johnson was physically incapable of driving due to her medical disability, Mr. VanDriel testified that Ms. Johnson would not be able to do "an extended drive" but could put up with the pain for "local trips."¹⁹⁵

¹⁹⁰ *Id.* at 213: 8-18.

¹⁹¹ *Id.* at 245: 19-25—246: 1.

¹⁹² *Id.* at 246: 2-25—247: 1.

¹⁹³ *Id.* at 247: 2-8; *see id.* at 246: 2-10.

¹⁹⁴ *Id.* at 214: 20-25—215: 1-5.

¹⁹⁵ *Id.* at 215: 13-21.

61. Mr. VanDriel pulled Hearing Exhibit 201 from Style Car’s reservation system.¹⁹⁶ He testified that this exhibit demonstrates that he drove the trips that Ms. Johnson is accused of driving.¹⁹⁷ He noted that one of those trips was cancelled, so no one performed it.¹⁹⁸ Hearing Exhibit 201 is titled “Style Car Service LLC Detailed Driver Payroll Report” for the driver name “V, Gary” (Mr. VanDriel).¹⁹⁹ Staff questioned Mr. VanDriel about discrepancies between the assigned vehicles listed in Hearing Exhibit 100 for the same trips listed in Hearing Exhibit 201. For example, Mr. VanDriel testified that he performed the trip on July 17, 2020 at 8:45 p.m. that appears in Hearing Exhibit 100 (Count 11).²⁰⁰ On Hearing Exhibit 100, the vehicle listed for this trip is a “Cadillac DTS Pro Limousine;” but on Hearing Exhibit 201, the vehicle listed for the exact same trip is a “Town Car Sedan.”²⁰¹ Mr. VanDriel agreed that Style Car owns and operates the Cadillac DTS Pro Limousine listed in Hearing Exhibit 100 but testified that this vehicle is operated in other states.²⁰² When questioned as to why the vehicle type assigned for this trip would change, Mr. VanDriel did not have an answer, but he later testified that Style Car rarely assigned more than one vehicle to a trip, and that if more than one vehicle was used, a new trip would be created.²⁰³

62. Mr. VanDriel testified that Hearing Exhibit 202 was also pulled from Style Car’s reservation system.²⁰⁴ This exhibit shows Ms. Johnson as the driver and is the same type of report

¹⁹⁶ *Id.* at 184: 4-11.

¹⁹⁷ *See id.* at 184: 8-25—185: 1; 217: 7-8; 222: 14-19.

¹⁹⁸ *Id.* at 184: 17-25—185: 1.

¹⁹⁹ Hearing Exhibit 201.

²⁰⁰ 12/12/22 Tr., 219: 11-25—220: 1-6. *See* Hearing Exhibits 100 at 56 and 119 at 3.

²⁰¹ *Compare* Hearing Exhibits 100 at 56 and 201 at 1.

²⁰² 12/12/22 Tr., 220: 14-25—221: 1.

²⁰³ *Id.* at 221: 10-25—222: 1-2.

²⁰⁴ *Id.* at 186: 10-14.

as Hearing Exhibits 100 and 201. Mr. VanDriel testified that the trip in Hearing Exhibit 202 is a sample trip that was created to test the new reservation system.²⁰⁵

63. Mr. VanDriel provided Hearing Exhibit 207C, a screenshot from Style Car's system, showing that the trip alleged in Count 13 was cancelled.²⁰⁶ Hearing Exhibit 100 also shows the same trip as cancelled.²⁰⁷

64. Mr. VanDriel explained that the "Detailed Driver Payroll Report," (like Hearing Exhibit 100, 201 and 202) are pulled from Style Car's cloud-based software and that this system is Style Car's reservation system.²⁰⁸ He also testified that the report is not used at all for payroll, and that employees fill out paper time sheets instead.²⁰⁹

65. Mr. VanDriel testified that Style Car does other work in addition to its Commission-regulated luxury limousine work, such as transporting train crews in other states, including Wyoming, Idaho, Nebraska, and Kansas.²¹⁰ He also testified that Style Car commonly farmed-out work to other companies, meaning other companies perform the farmed-out trips.²¹¹

66. Mr. VanDriel testified that under its luxury limousine permit, Style Car operates only two Lincoln MKTs, each of which can seat up to three passengers; that Style Car would not have been able to perform the trips which the Commission Investigators requested using their aliases; and that Style Car would have had to "farm-out" those trips.²¹² Mr. VanDriel agreed that

²⁰⁵ *Id.* at 185: 24-25—186: 1-22.

²⁰⁶ *Id.* at 258: 10-25—259: 1-18; Hearing Exhibit 207C. *See* Hearing Exhibit 119 at 3.

²⁰⁷ *Compare* Hearing Exhibit 100 at 56 and Hearing Exhibit 207C.

²⁰⁸ *See* 12/12/22 Tr., 248: 21-25.

²⁰⁹ *Id.* at 249: 1-4.

²¹⁰ *Id.* at 194: 8-17.

²¹¹ *Id.* at 188: 16-25—189: 1-19.

²¹² *See id.* at 191: 11-16; 192: 9-25.

Style Car has purchased two stamps per year from the Commission per year since 2019 (when Style Car began operations).²¹³

67. When questioned as to whether Style Car owns and operates the vehicles shown in the DMV's list of vehicles registered to Style Car, Mr. VanDriel was initially hesitant to confirm that Style Car owns several of the listed vehicles.²¹⁴ Ultimately, he agreed that Style Car "likely" owns the 2014 Lincoln MKT (VIN ending 4414); and that Style Car owns and operates the 2012 Lincoln MKT (VIN ending 4313) which he called "MK-1" and the 2011 Lincoln MKT (VIN ending 2843) which he called "MK-2" shown in DMV records.²¹⁵ These three vehicles are listed in Counts 1, 2, and 4.²¹⁶ Mr. VanDriel also confirmed that Style Car owns the second 2014 Lincoln MKT (VIN ending 0280) registered to Style Car per DMV's records but testified that Style Car does not operate the vehicle because it was not "road ready" when it was purchased in May 2021.²¹⁷ This 2014 Lincoln MKT is listed in Count 7.²¹⁸ Similarly, Mr. VanDriel confirmed that Style Car owns and operates the 2015 Mercedes Sprinter (VIN ending 5551); the 2018 ELKD E450 Econoline (VIN ending 1049); and the 2010 Cadillac Professional Chassis limousine (VIN ending 0291) shown in the DMV's records, but testified that all three vehicles are operated in Wyoming.²¹⁹ These three vehicles are listed in Counts 3, 5, and 6.²²⁰

68. When asked why he registered vehicles in Colorado that Style Car does not operate within the state, Mr. VanDriel testified that "it's a complicated answer," and that the

²¹³ *Id.* at 232: 6-10.

²¹⁴ *See e.g., id.* at 226: 13-25—227: 1-22.

²¹⁵ *Id.* at 227: 16-17 (referring to Hearing Exhibit 110 at 1); 227: 24-25—228: 2-8 (referring to Hearing Exhibit 110 at 2); 228: 19-25—229: 1-3 (referring to Hearing Exhibit 110 at 4).

²¹⁶ *See* Hearing Exhibit 119 at 1-2; Hearing Exhibits 110 and 110C at 1, 2 and 4.

²¹⁷ 12/12/22 Tr., 229: 23-25—230: 1-6 (referring to Hearing Exhibit 110 at 8).

²¹⁸ *See* Hearing Exhibit 119 at 2; Hearing Exhibits 110 and 110C at 8.

²¹⁹ 12/12/22 Tr., 228: 9-18 (referring Hearing Exhibit 110 at 3); 229: 9-14 (referring to Hearing Exhibit 110 at 6); 229: 15-22 (referring to Hearing Exhibit 110 at 7).

²²⁰ *See* Hearing Exhibit 119 at 1-2; Hearing Exhibits 110 and 110C at 3, 6, and 7.

auction dealer completes the paperwork based on “how we’re registered, and we’re registered as Style Car Services, in Larimer County.”²²¹

69. Mr. VanDriel testified that the two vehicles covered by Style Car’s insurance policy with Progressive, that is, a 2011 Lincoln MKT with VIN ending 3587 and 2012 Lincoln MKT with VIN ending 4313, are the only two vehicles the Company uses to provide service under its Commission-issued luxury limousine permit.²²² He testified that Style Car’s other vehicles are insured by “some obscure company” that “may be AIG.”²²³ Although the Company’s other vehicles are at issue in this Proceeding, Mr. VanDriel did not contact this other insurance company to obtain proof of insurance because “those vehicles aren’t operated under the LL permit.”²²⁴

70. Mr. VanDriel denied having anything to do with posting vehicle photos on Yelp and suggested that members of the public may have posted photos but agreed that several were accurate photos of the interior of one of Style Car’s Lincoln MKTs from Style Car’s website.²²⁵ Mr. VanDriel denied that Style Car owns any “very stretched out limos” like those depicted in the Yelp photos.²²⁶

71. Mr. VanDriel conceded “the violation as to Mr. Harris,” explaining that Style Car overlooked “having his fingerprint and health card on file,” but that this was remedied as quickly as possible.²²⁷

²²¹ 12/12/22 Tr., 241: 25—242: 1-5.

²²² *See id.* at 210: 25—211: 1-3 (referring to Hearing Exhibit 116).

²²³ *Id.* at 211: 4-10.

²²⁴ *Id.* at 211: 17-25.

²²⁵ *Id.* at 190: 1-21.

²²⁶ *Id.* at 191: 7-10 (referring to Hearing Exhibit 112).

²²⁷ *Id.* at 194: 18-25—195: 1-8; 195: 17-19.

III. RELEVANT LAW, FINDINGS, ANALYSIS, AND CONCLUSIONS

A. Commission Authority and Burden of Proof

72. Under § 40-7-101, C.R.S., the Commission has both the authority and responsibility to enforce the provisions of article 10.1 of title 40, Colorado Revised Statutes. Commission enforcement personnel have authority to issue CPANs per § 40-7-116, C.R.S., for violations enumerated in article 10.1 of title 40, §§ 40-7-112 and 113, C.R.S., and the Commission's Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6.²²⁸

73. That said, under § 40-7-111, C.R.S., “[n]one of provisions of articles 1 to 7 [of title 40] shall apply or be construed to apply to commerce . . . among the several states.” In fact, generally, the federal government has jurisdiction to regulate transportation between states, that is, interstate transportation.²²⁹ This limits the Commission's authority to assess civil penalties under § 40-7-116, C.R.S.

74. Staff bears the burden of proof by a preponderance of the evidence.²³⁰ This standard requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence.²³¹ The preponderance of the evidence standard requires “substantial evidence,” which is defined as such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion, and enough to justify, if the trial were to a jury,

²²⁸ See §§ 40-7-113(1) and 116, C.R.S. Under § 40-6-113(1), C.R.S., the Commission can assess a civil penalty for violating rules promulgated per article 10.1 of title 40. The Commission's Rules Regulating Transportation by Motor Vehicle were promulgated per §§ 40-10.1-101 to 705, C.R.S. See the “Basis, Purpose, and Statutory Authority” for the Rules Regulating Transportation by Motor Vehicle (4 CCR 723-6).

²²⁹ See 49 USC § 13501(1)(A). In certain circumstances, federal law goes as far as to bar states from attempting to regulate interstate transportation. 49 USC § 14501(a)(1).

²³⁰ §§ 40-7-116(1)(d)(II); § 24-4-105(7), C.R.S.; Rule 6018(c), 4 CCR 723-6; Rule 1500, 4 CCR 723-1.

²³¹ *Swain v. Colorado Dept. of Revenue*, 717 P.2d 507 (Colo. App. 1985).

a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.²³²

75. It is undisputed that Style Car is a regulated motor carrier who is bound to follow applicable Commission Rules.²³³ Because the CPAN alleges violations of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6 and article 10.1 of title 40, Colorado Revised Statutes, against a motor carrier bound to those rules and statutes, the ALJ concludes that the Commission has jurisdiction and authority over this matter, and that the CPAN is authorized.²³⁴

B. Service and Notice Requirements

76. Staff must serve a civil penalty assessment notice on the named respondent; this may be accomplished by certified mail or by personal service.²³⁵ The content of a CPAN must provide adequate notice of the alleged violations.²³⁶ As relevant here, a CPAN must include: the name and address of the person cited; a citation to the specific statute or rule alleged to have been violated; a brief description of the alleged violation, including the date and approximate location of the alleged violation; the maximum penalty amounts for the violation, including any surcharge imposed per § 24-34-108(2), C.R.S.; the date of the notice; a place for the respondent to sign to acknowledge receipt and liability for the CPAN and violations alleged therein; and other information as may be required by law to constitute notice of a complaint to appear for hearing if the penalty is not paid within ten days.²³⁷

²³² See, e.g., *City of Boulder v. Pub. Utilis. Comm'n.*, 996 P.2d 1270, 1278 (Colo. 2000) quoting *CF&I Steel, L.P. v. Pub. Utilis. Comm'n.*, 949 P.2d 577, 585 (Colo. 1997).

²³³ See Hearing Exhibit 102; *supra*, ¶ 15.

²³⁴ See §§ 40-7-116(1), C.R.S.; Hearing Exhibit 119; *supra*, ¶ 15.

²³⁵ § 40-7-116(1)(b), C.R.S.; Rules 1205(a) and (d), 4 CCR 723-1.

²³⁶ § 40-6-116(1), C.R.S. See § 24-4-105(2)(a), C.R.S.

²³⁷ § 40-6-116(1)(b), C.R.S.; Rule 6018(b), 4 CCR 723-6.

76. The ALJ finds that the CPAN provides proper notice of the alleged violations because it includes Style Car's name and address; citations to the specific statutes or rules alleged to have been violated; a brief description of the alleged violation, including the date and approximate location of the alleged violation; the maximum penalty for the alleged violations, including the surcharge imposed per § 24-34-108(2), C.R.S.; the date of the notice; and a place for Style Car to sign to acknowledge receipt and liability for the CPAN and violations alleged therein.²³⁸ The ALJ also finds that the preponderance of the evidence establishes that the CPAN was properly served on Style Car on June 7, 2022 by USPS certified mail.²³⁹

C. CPAN

1. Findings as to Witness Credibility and Reliability of Key Documentary Evidence.

77. Before evaluating the evidence on the specific CPAN counts, the ALJ first makes findings relating to the reliability of certain evidence and witness credibility. In the circumstances here, these factors play a major role in determining whether the preponderance of the evidence establishes that Style Car committed the alleged violations.²⁴⁰ In assessing credibility, the ALJ considers the evidence as a whole, including witness demeanor.

78. As explained in detail, Style Car heavily disputes the accuracy of Hearing Exhibit 100, essentially alleging that it is either fabricated or falsified.²⁴¹ Hearing Exhibit 100 provides the basis for many of the CPAN Counts, and thus, its reliability is critical. Along these same lines, Style Car disputes much of Ms. Wanamaker's testimony, including that she pulled and printed Hearing Exhibit 100 from Style Car's reservation system. Thus, her credibility is also

²³⁸ § 40-6-116(1)(b), C.R.S.; Hearing Exhibit 119 at 1-8.

²³⁹ See Hearing Exhibits 102 at 3, 119 at 7, and 120 at 1-2; 12/12/22 Tr., 150: 6-18.

²⁴⁰ See *In re Marriage of Burford*, 26 P.3d 550, 557 (Colo. App. 2001).

²⁴¹ *Supra*, ¶ 55.

critical. Likewise, given the significant factual disputes, and that Mr. VanDriel is Style Car's owner, CEO, and was its sole witness, his credibility is also critical.

For the reasons discussed, the ALJ finds Ms. Wanamaker's testimony credible. Her demeanor aligns with this finding. Ms. Wanamaker credibly testified that: she worked for both FAST and Style Car; she was trained on how to use Style Car's reservation system as a part of her employment with Style Car; and that she regularly worked within Style Car's reservation system (making trip reservations) as a part of her employment with Style Car.²⁴² Her testimony demonstrates that she understands how to use and operate Style Car's reservation system, and the purpose and use of reports pulled from that system. When Ms. Wanamaker identified Style Car's vehicles, she carefully explained that she was not certain that Style Car owned or operated at least two vehicles that she observed; this benefitted Style Car.²⁴³ Ms. Wanamaker did not attempt to hide, disguise, or downplay the fact that she was unhappy working at Style Car, and did not leave on good terms.²⁴⁴ If Ms. Wanamaker were simply a disgruntled former employee providing false evidence against Style Car, it makes little sense that she would wait to be approached by Investigator Haislett. She could have filed a complaint with the Commission on the day she ended her employment with Style Car but did not. And, given that the only CJ that Ms. Wanamaker knew who worked for Style Car was Ms. Johnson, if Ms. Wanamaker was intent on fabricating or falsifying a driver record to create evidence against Style Car, the logical result would be a record showing Ms. Johnson as the driver, not CJ Del Vecchio.

79. Hearing Exhibit 100 demonstrates that Ms. Wanamaker did, in fact, have access to Style Car's reservation system (contrary to Mr. VanDriel's testimony). Hearing Exhibit 100

²⁴² *Supra*, ¶¶ 47, 53.

²⁴³ *Supra*, ¶ 49, fn. 153 and 155.

²⁴⁴ *See* 12/12/22 Tr., 20: 19-25. 61: 23-25—62: 1.

mimics reports that Style Car offered into evidence (Hearing Exhibits 201, 201C, and 202), which were pulled and printed from Style Car's reservation system.²⁴⁵ For example, like Hearing Exhibit 100, Hearing Exhibits 201, 201C, and 202 have the same Style Car logo, the same report title, and include the same fields for information to be input (e.g., pick-up date and time, billing contact, base rate charges, type of pick up location, passenger's name, vehicle type used, and routing information).²⁴⁶ One primary difference between these reports is that Hearing Exhibit 100 includes a date and time stamp on each page showing that the report was pulled or printed on November 30, 2021 at 10:29 a.m.²⁴⁷ This bolsters Hearing Exhibit 100's reliability because it demonstrates that the exhibit was pulled or printed well before the CPAN investigation began and is consistent with Ms. Wanamaker's testimony as to when she pulled the report. What is more, the evidence established that both FAST and Style Car operated out of the office in which Ms. Wanamaker worked and even Mr. VanDriel admitted that Ms. Wanamaker answered calls for both companies. Given all of this, the preponderance of the evidence establishes that Ms. Wanamaker worked for Style Car; had access to Style Car's reservation system; made reservations in that system; and pulled and printed Hearing Exhibit 100 from Style Car's reservation system on November 30, 2021.

²⁴⁵ Compare Hearing Exhibits 100, 201, 20C, and 202. See 12/12/22 Tr., 248: 21-25.

²⁴⁶ Compare Hearing Exhibits 100 at 1, 201 and 201C at 1 and 202 at 1.

²⁴⁷ Hearing Exhibit 100 at 1-141

80. Hearing Exhibit 202 provides telling evidence as to Mr. VanDriel's credibility and confirms Hearing Exhibit 100's reliability. Hearing Exhibit 202 states that it is a driver payroll report for Ms. Johnson while Hearing Exhibit 100 states that it is a driver payroll report for CJ Del Vecchio. Hearing Exhibit 202 lists a February 28, 2019 11:00 a.m. trip (2/28/19 trip) that is identical to a trip that appears on page two in Hearing Exhibit 100.²⁴⁸ In both exhibits, the 2/28/19 trips include the same: confirmation number, pick-up date, pick-up time, billing contact, passenger name, duration, type of pick-up location, vehicle type assigned, routing information (including the same pick-up and drop-off locations), base rate charges, and gratuity.²⁴⁹ Mr. VanDriel testified that the 2/28/19 trip in Hearing Exhibit 202 is a sample trip to test Style Car's reservation system.²⁵⁰ If this were the case, it makes no sense for the exact same trip to appear in a driver report for CJ Del Vecchio (not Ms. Johnson), alongside more than 500 other trips.²⁵¹ And, the exact same unique passenger and billing contact name for the allegedly fake trip in Hearing Exhibit 202 shows up for numerous trips listed in Hearing Exhibit 100.²⁵² Unlike Hearing Exhibit 100, Hearing Exhibit 202 does not include a date and time stamp for its print or pull date. The ALJ finds that it is unlikely that any of this is a coincidence. Based on the forgoing, the ALJ finds that the preponderance of the evidence establishes that Hearing Exhibit 100 is an accurate and business record of Style Car's reservations and trips performed for the timeframe reflected therein. The ALJ rejects Mr. VanDriel's accusation that Ms. Wanamaker manipulated, fabricated, or falsified Hearing Exhibit 100 as inconsistent with the evidence.

²⁴⁸ Compare Hearing Exhibits 100 at 2 and 202 at 1.

²⁴⁹ Hearing Exhibit 100 at 2 and 202 at 1-2.

²⁵⁰ See 12/12/22 Tr., 185: 24-25—186: 1-14.

²⁵¹ See Hearing Exhibits 100 at 2 and 202 at 1. See e.g., Hearing Exhibit 100 at 1-141 (unique "Conf#" showing for each trip) and Hearing Exhibit 201C at 1-10 (unique "Conf#" showing for each trip).

²⁵² See e.g., Hearing Exhibit 100 at 1, 2, 5, 6, 7, 12, 13, 37.

81. Turning to Mr. VanDriel's credibility, the ALJ finds that his testimony was inconsistent at best and intentionally misleading at worst. His testimony about Ms. Johnson is particularly damning. For example, he testified that Ms. Johnson only drove for Style Car for the first month after the Company formed and received its permit.²⁵³ Style Car established itself in Colorado in October 2018, and first received its Commission permit on February 25, 2019.²⁵⁴ Following Mr. VanDriel's testimony to its logical conclusion, Ms. Johnson would have driven for Style Car for approximately one month starting around February 25, 2019, and ending late March or early April 2019. This contradicts his March 2020 letter asking the Commission to reinstate Ms. Johnson's driving privileges.²⁵⁵ In that letter, he said that "CJ Johnson has been employed by Style Car Service since formation, both as a driver and as admin help," and that he "would like to continue employing her as a driver if you will allow her exemption."²⁵⁶ While he described his letter as inartful, the letter leaves little question that Ms. Johnson was employed as a driver for Style Car for about a year by the time Mr. VanDriel wrote the letter, contrary to his testimony. Indeed, if she had stopped driving for Style Car in March or April 2019, there would be no reason for Mr. VanDriel to ask the Commission to reinstate Ms. Johnson's driving privileges almost a year later so that she could "continue" driving for his Company.²⁵⁷ And, in his March 2020 letter, Mr. VanDriel took care to tell the Commission that in all the dashcam recordings of Ms. Johnson's driving that he reviewed, she never broke a traffic law.²⁵⁸ It is difficult to imagine Mr. VanDriel reviewing dashcam recordings, and writing a letter to the Commission unless Ms. Johnson was a regular driver for Style Car.

²⁵³ Hearing Exhibit 102 at 3. *See* 12/12/22 Tr., 246: 5-7; 247: 2-6.

²⁵⁴ Hearing Exhibit 102 at 3. *See* Hearing Exhibit 101 at 3.

²⁵⁵ Hearing Exhibit 107 at 4.

²⁵⁶ *Id.*

²⁵⁷ *See id.*

²⁵⁸ *Id.*

82. Mr. VanDriel also testified that when he said Ms. Johnson had been a Style Car driver since formation, he really meant that Ms. Johnson was a driver “at one point in time” and that he did not mean that she was currently employed as a driver.²⁵⁹ This testimony contradicts the statement in his March 2020 letter to the Commission that he “would like to *continue* employing her as a driver if you will allow her exemption.”²⁶⁰ On top of the above inconsistencies, Mr. VanDriel also testified that Ms. Johnson stopped driving for Style Car when she received her DUI offense.²⁶¹ She was arrested for DUI on June 20, 2019 and convicted of DWAI on November 5, 2019.²⁶² Whether Mr. VanDriel meant that she stopped driving when she was arrested or when she was convicted, this testimony contradicts his earlier testimony that she only drove for the Company for one month in early 2019, and is inconsistent with his March 2020 letter to the Commission.

83. Further compounding matters, Mr. VanDriel also testified that Ms. Johnson could not have performed the trips in Hearing Exhibit 100 because she is physically incapable of driving, and that she has not been employed for years due to her medical disability that began sometime in 2011.²⁶³ He added numerous details to bolster this testimony, such as Ms. Johnson’s condition causes her to become “loopy” and pass out; that she is in too much pain to move a steering wheel or close a car door, and that she cannot even pick up a gallon of milk.²⁶⁴ Despite all of this, Mr. VanDriel wrote the March 2020 letter so that he could “continue” to employ Ms. Johnson as a driver.²⁶⁵ When asked why he wrote this letter given his testimony that Ms. Johnson

²⁵⁹ See 12/12/22 Tr., 246: 2-25—247: 1. “I wasn’t stating that, as a present tense. I said ‘both as a driver and admin help.’ I didn’t say currently.” 246: 17-19.

²⁶⁰ Hearing Exhibit 107 at 4 (emphasis added).

²⁶¹ 12/12/22 Tr., 247: 2-6.

²⁶² Hearing Exhibit 105 at 2 and 6-7.

²⁶³ *Supra*, ¶ 57.

²⁶⁴ 12/12/22 Tr., 178: 4-9; 179: 9-17; *supra*, ¶ 57.

²⁶⁵ Hearing Exhibit 107 at 4.

was physically incapable of driving and did not drive for the Company, Mr. VanDriel testified that Ms. Johnson would not be able to do “an extended drive” but could put up with the pain for “local trips” and that he wrote the letter as a “just in case type of thing” if last minute trips came up for a “short drive.”²⁶⁶ If true, then Style Car intended to have Ms. Johnson perform trips despite knowing that that her condition caused her to become “loopy” and pass out, and despite her inability to move a steering wheel or close a car door. Notably, Ms. Johnson’s June 20, 2019 arrest plainly demonstrates that she was driving a vehicle that either Style Car or Mr. VanDriel owned, contrary to Mr. VanDriel’s testimony that she is physically incapable of driving. And, of course, his testimony also contradicts Ms. Johnson’s March 2020 letter wherein she says she loves the work she does as a chauffeur; that clients request her as a private driver; and that she is an integral part of the business.²⁶⁷ None of this adds up.

84. And while Mr. VanDriel also testified that Ms. Johnson “isn’t employed” and has not been employed for “years” due to her disability because “she physically, basically, can’t do anything,” he also testified that for the last several years, Ms. Johnson occasionally answers the phones for Style Car.²⁶⁸ The evidence contradicts this testimony. For example, Ms. Johnson submitted Style Car’s application to renew its permit on April 19, 2022, which demonstrates that as recently as April 2022, Ms. Johnson performed important tasks for Style Car (well beyond answering the phone).²⁶⁹ Ms. Johnson primarily communicated with Investigator Haislett’s alias (using her Style Car email); signed numerous emails as “CJ Owner/Chauffeur;” referred to recent trips she performed for Style Car; and provided the estimate for transportation with her personal

²⁶⁶ 12/12/22 Tr., 214: 20-25—215: 1-5; 215: 13-21.

²⁶⁷ Hearing Exhibit 107 at 3.

²⁶⁸ 12/12/22 Tr., 177: 14-18; 255: 13-19.

²⁶⁹ Hearing Exhibit 103. *See also*, Hearing Exhibit 107 at 3.

cellular phone number.²⁷⁰ Most notably, Ms. Johnson represented Style Car during the 2022 and 2021 SCRs. Mr. VanDriel was not present at either SCRs. And Ms. Johnson provided Investigator Haislett with Style Car's records during the SCR. Had Ms. Johnson been relegated to occasionally answering Style Car's phones, she would not have been the person entrusted to speak on behalf of Style Car during the SCR. Indeed, taking on such roles, particularly at a time when Mr. VanDriel was aware that the Commission was investigating a complaint, demonstrates that contrary to Mr. VanDriel's testimony, Ms. Johnson continued to play a meaningful role in Style Car's operations through at least April 2022.

85. For the reasons discussed, the ALJ finds that Mr. VanDriel's testimony is not credible.²⁷¹ His demeanor during the hearing aligns with this credibility determination. For the reasons discussed, the ALJ affords Mr. VanDriel's testimony little weight.

86. Mr. VanDriel prepared Hearing Exhibit 201 as evidence that he performed all the trips that the CPAN alleges Ms. Johnson performed. Given that the ALJ finds Mr. VanDriel's testimony not credible, that he prepared Hearing Exhibit 201, and no other witness from Style Car testified as to the accuracy of the exhibit, the ALJ gives Hearing Exhibit 201 little weight.

²⁷⁰ Hearing Exhibit 113 at 3-13.

²⁷¹ The above discussion is not intended to identify all the evidence that leads the ALJ to conclude that Mr. VanDriel's testimony is not credible. This is a sampling of some of the most compelling evidence. And while the examples discussed above are more than enough to support the ALJ's credibility determination, there is more that the ALJ does not rely on in making her credibility determination. Specifically, Mr. VanDriel testified that he was unaware that there was a warrant out for his arrest in Larimer County, Colorado in Case No. 22CR1657 for 28 counts of forgery and submitting false statements. 12/12/22 Tr., 240: 9-18. A few days after the evidentiary hearing, Mr. VanDriel's counsel filed a Notice, wherein counsel stated, "[t]owards the end of the hearing, the Style Car witness was asked if he was 'aware' of certain charges that had been issued in Larimer County. His answer was to the effect that he was unaware. The witness was aware." Notice at 1.

2. Counts 1 to 4, 6 and 7.

87. Counts 1 to 4, 6 and 7 allege that on January 1, 2022, Style Car violated Rule 6102(b)(1) by failing to comply with the annual motor vehicle identification stamp fee before the first day of January of each year for each motor vehicle that Style Car carrier owns, controls, operates or manages within Colorado as set forth in § 40-10.1-111, C.R.S.²⁷²

88. In its Motion to Dismiss, Style Car asks that these Counts be dismissed for failing to state a violation. In support, Style Car argues that Rule 6102(a) requires persons operating a vehicle to obtain and display the Commission-issued stamp, and that under § 40-7-113, C.R.S., the person who operates the vehicle without paying the stamp fee is subject to a penalty.²⁷³ Style Car concludes that this means that by definition, failing to purchase a stamp by the first of January is not a violation.²⁷⁴

89. Staff responds that Style Car's reading fails to give effect to portions of Rule 6102(b)(I) that requires motor carriers to purchase stamps, and that carriers have to first purchase stamps in order to display them per Rule 6102(a).²⁷⁵ Staff also argues that Style Car's interpretation conflicts with the statutory objective in § 40-10.1-111(1)(f), C.R.S., to assess annual fees for every vehicle that a carrier owns, controls, operates or manages, not just those vehicles in operation.²⁷⁶

²⁷² Hearing Exhibit 119 at 1-2.

²⁷³ Motion to Dismiss at 2.

²⁷⁴ See Motion to Dismiss at 2.

²⁷⁵ Staff's Response at 8-9.

²⁷⁶ *Id.*

90. For the reasons discussed, the ALJ rejects Style Car’s argument. The CPAN alleges violations of Rule 6102(b)(I), not Rule 6102(a). Thus, Rule 6102(a) is not at issue and is not relevant. Under Rule 6102(b)(I), to obtain a vehicle identification stamp, motor carriers must pay the Commission an annual fee before the first day of January of each calendar year for each vehicle the carrier “owns, controls, operates, or manages within the state of Colorado” as set forth in § 40-10.1-111, C.R.S. And § 40-10.1-111(1)(f), C.R.S., requires motor carriers to pay an annual fee in the amount the Commission sets for each vehicle that the carrier “owns, controls, operates, or manages.” By its plain language, a motor carrier violates Rule 6102(b)(I) by failing to pay the required annual fee for each vehicle the carrier owns, controls, operates, or manages in Colorado before the first day of January of each year. The Commission has authority to assess a civil penalty against Style Car for violating Rule 6102(b)(I) because plain language of § 40-7-113(1), C.R.S., allows the Commission to assess penalties against persons who violate a provision in article 10.1 of title 40, and Commission Rules.²⁷⁷

To the extent that Style Car argues that § 40-7-113(1)(e), C.R.S., limits the Commission to assessing a civil penalty against only the driver of a vehicle for which the annual identification fees were not paid, the ALJ rejects this argument. First, § 40-7-113(1)(e), C.R.S., involves a different offense than those at issue here. Section 40-7-113(1)(e), C.R.S., states that “a person subject to section 40-10.1-111 who operates a motor vehicle without having paid the annual identification fee for any motor vehicle operated as required by section 40-10.1-111 may be

²⁷⁷ See *In re Marriage of Davison*, 797 P.2d 809, 810 (Colo. App. 1990) (words and phrases should be given effect according to their plain and ordinary meaning).

assessed a civil penalty of not more than four hundred dollars.” Thus, a penalty under § 40-7-113(1)(e), C.R.S., requires an evidentiary showing that a person subject to § 40-10.1-111, C.R.S., actually drove the motor vehicle for which the annual identification fee has not been paid. This is plainly a different offense than those alleged in Counts 1 to 4, 6 and 7, which do not speak to operating vehicles, but to the failure to pay the annual fee for the Company’s vehicles. Second, as implied above, § 40-7-113(1)(e), C.R.S., does not speak to civil penalties for failing to pay the annual identification fee required by § 40-10.1-111, C.R.S., but instead prescribes a penalty limit against drivers who *operate* a motor vehicle for which the fee has not been paid.²⁷⁸ For all these reasons, the ALJ concludes that the plain statutory language of § 40-7-113(1)(e), C.R.S., does not prohibit the Commission from imposing penalties against a motor carrier who fails to pay the annual identification fee required per § 40-10.1-111(1)(f), C.R.S., for each vehicle that it owns, controls, or operates in Colorado.

91. The relevant Counts allege that on January 1, 2022, Style Car violated Rule 6102(b)(I) by failing to pay the annual fee for the following vehicles before January 1st: a 2014 Lincoln MKT with Colorado registration BKGMO6, and VIN ending 4414 (Count 1); a 2012 Lincoln MKT with Colorado registration ROX577 and VIN ending 4313 (Count 2); a 2015 Mercedes Sprinter 3 with Colorado registration BKGM03, VIN ending 5551 (Count 3); a 2011 Lincoln MKT with Colorado registration OKM655, VIN ending 2843 (Count 4); a 2010 Cadillac Professional Chassis with Colorado registration ROX578, VIN ending 0291 (Count 6); and a 2014 Lincoln MKT with Colorado registration BAX809, VIN ending 0280 (Count 7).²⁷⁹

²⁷⁸ *See id.*

²⁷⁹ Hearing Exhibit 119 at 1-2.

92. The preponderance of the evidence establishes that Style Car owned each of the above vehicles before January 1, 2022, and registered them in Colorado.²⁸⁰ Having registered these vehicles in Colorado, Style Car owns the vehicles in the state of Colorado as contemplated by Rule 6102(b)(I) and § 40-10.1-111(1)(f), C.R.S.²⁸¹ The evidence also establishes that Style Car did not pay the annual fee for each of the above vehicles for calendar year 2022 before January 1, 2022.²⁸² For all these reasons, the ALJ concludes that Staff met its burden as to Counts 1 to 4, 6 and 7.²⁸³

3. Counts 9 and 10

93. Count 9 alleges that Style Car violated Rule 6109(a) on February 1, 2022 by requiring or permitting a driver, Mr. Nathan Harris, to drive without having been medically examined and certified.²⁸⁴ Count 10 alleges that Style Car violated Rule 6114(i)(I) on February 1, 2022 by permitting a driver, Mr. Nathan Harris, to drive without having first obtained a fingerprint criminal background check (in violation of the Rule and § 40-10.1-110, C.R.S.).²⁸⁵

94. Rule 6019(a) prohibits motor carriers from permitting anyone to drive who has not been medically examined and certified per Rule 6109 or 49 C.F.R. 391.41. And Rule 6114(i)(I) prohibits a motor carrier from allowing anyone to drive for the carrier if the driver has

²⁸⁰ Hearing Exhibit 110C at 1-8.

²⁸¹ This is not to say that in all circumstances, registering a vehicle in Colorado means the vehicle is owned in Colorado. A credible evidentiary showing could indicate differently. Here, no such showing was made.

²⁸² Hearing Exhibit 102 at 4. *See supra*, ¶ 40.

²⁸³ Both § 40-10.1-111(1)(f), C.R.S., and Rule 6102(b)(I) obligate motor carriers to pay the annual fee for each vehicle the carrier owns, controls, operates or manages in Colorado; neither require that the carrier operate such vehicles in Colorado. As such, the ALJ does not evaluate that question for purposes of determining that Staff met its burden as to these Counts. But the ALJ considers this issue when deciding the appropriate civil penalty for these Counts. *See infra*, D. Civil Penalty Assessment.

²⁸⁴ Hearing Exhibit 119 at 3.

²⁸⁵ *Id.*

not complied with Rule 6114 and § 40-10.1-110, C.R.S. As relevant here, Rule 6114(c) requires that within ten days of contracting or being employed to drive for a carrier, a driver who is not already qualified by the Commission at the time of hire must submit their fingerprints for a criminal history record check.²⁸⁶ And, under § 40-10.1-110(1)(a), C.R.S., luxury limousine permit holders “must have” individuals wishing to drive for them submit their fingerprints to a local law enforcement agency or third party approved by the Colorado Bureau of Investigations for the purpose of obtaining a fingerprint-based criminal history record check. To remove any doubt that it is the permit holder’s responsibility to ensure that drivers obtain a fingerprint-based criminal history check, § 40-10.1-110(6), C.R.S., states that each motor carrier described in § 40-10.1--110(1), C.R.S., “shall ensure driver compliance with this section and with commission rules promulgated pursuant to this section.”

95. For the reasons discussed, the ALJ finds that the preponderance of the evidence establishes that Style Car permitted Mr. Harris to drive on February 1, 2022, without having first been medically examined and medically certified to drive, and without requiring him to first obtain a fingerprint-based criminal history record check.²⁸⁷ Mr. Harris’s driver record establishes that he drove for Style Car on February 1, 2022 and 21 additional days that month for a total of 106 driving hours.²⁸⁸ Mr. Harris was medically examined and certified on March 12, 2022.²⁸⁹ And, Mr. Harris first submitted his fingerprints for a criminal history check on March 16, 2022; the Commission qualified him to drive on March 25, 2022.²⁹⁰ Notably, Mr. VanDriel conceded

²⁸⁶ Other provisions in Rule 6114 outline the Commission’s process for qualifying or disqualifying a driver after they have submitted their fingerprints. Rule 6114(f), 4 CCR 723-6.

²⁸⁷ See *supra*, ¶¶ 37, 38, 70.

²⁸⁸ Hearing Exhibit 109 at 1.

²⁸⁹ 12/12/22 Tr., 101: 5-13.

²⁹⁰ *Id.* at 111: 17-25—112: 1-11; Hearing Exhibit 108 at 3-4.

the violations concerning Mr. Harris.²⁹¹ For all these reasons, the ALJ finds that Staff met its burden as to Counts 9 and 10.

4. Counts 8 and 11 to 27

96. Counts 8 and 11 to 27 allege violations of Commission rules based upon Ms. Johnson driving trips for Style Car.

97. Style Car's Motion to Dismiss argues that these Counts should be dismissed because they were brought after the expiration of the statute of limitations in § 13-80-103(1), C.R.S.²⁹² In support, Style Car relies on language in § 13-80-103(1)(d), C.R.S., that states that civil actions for any penalty must be filed within one year after the cause of action accrues and the Court's decision in *State ex rel. Weiser v. Castle Law Grp.*, 457 P.3d 699 (Colo. App. 2019).²⁹³

Staff responds that § 13-80-103(1), C.R.S., does not apply to administrative proceedings, and that there is no statute of limitations applicable to Commission administrative actions.²⁹⁴ For the reasons discussed, the ALJ rejects Style Car's argument. To start, the plain language of § 13-80-103(1), C.R.S., narrows its application to "civil actions" only.²⁹⁵ This is an administrative proceeding, not a civil action. As such, by its plain language, § 13-80-103(1), C.R.S., does not apply here. Second, Colorado courts have consistently held that statutes of limitations in title 13, part 80 do not apply to administrative proceedings.²⁹⁶ Contrary to Style Car's arguments,

²⁹¹ 12/12/22 Tr., 194: 18-25—195: 1-8; 195: 17-19.

²⁹² See Motion to Dismiss at 2-3.

²⁹³ *Id.*

²⁹⁴ Staff's Response at 5.

²⁹⁵ See *In re Marriage of Davisson*, 797 P.2d at 810.

²⁹⁶ See *Colo. State Bd. of Med. Examiners v. Jorgensen*, 599 P.2d 869, 872 (Colo. 1979); *Colo. State Bd. of Med. Examiners v. Ogin*, 56 P.3d 1233, 1239 (Colo. App. 2002); *Berry v. Colo. Dep't. of Rev.*, 656 P.2d 721, 722 (Colo. App. 1982).

nothing in *State ex rel. Weiser v. Castle Law Grp.*, disturbs this long-standing case law.²⁹⁷ *Weiser* involved a civil action, not an administrative one.²⁹⁸ In *Weiser*, the Court examined which statute of limitations applied to the civil action at issue, a broad one in title 13, or a specific one within the Colorado Consumer Protection Act (under which the civil action was brought).²⁹⁹ At no point did the Court find or even discuss whether title 13's statute of limitations applies to administrative proceedings. For all these reasons, the ALJ rejects Style Car's argument that the statute of limitations applies to Counts 8 and 11 through 27.

98. As to the merits of the relevant Counts, a central factual issue is whether Ms. Johnson transported passengers for Style Car on the dates and times alleged. Hearing Exhibit 100 is the primary evidence Staff offered in support of the Counts, but it identifies CJ Del Vecchio as the driver. Thus, the ALJ must first address the threshold question of whether the preponderance of the evidence establishes that the person identified as CJ Del Vecchio in Hearing Exhibit 100 is Ms. CJ Johnson. For the reasons discussed below, the ALJ answers this question in the affirmative.

99. As someone responsible for booking trips for Style Car, Ms. Wanamaker had personal knowledge of driver names to which Style Car's trips were assigned.³⁰⁰ She credibly testified that trips were booked in Style Car's system under the name CJ Del Vecchio; that she observed Ms. Johnson driving Style Car vehicles to perform trips assigned to CJ Del Vecchio; and that any trip that Ms. Johnson left to perform was always a trip that was assigned to CJ Del

²⁹⁷ See Motion to Dismiss at 3-4, citing *State ex rel. Weiser v. Castle Law Grp.*, 457 P.3d 699 (Colo. App. 2019).

²⁹⁸ *Weiser*, 457 P.3d at 704.

²⁹⁹ *Id.* at 715.

³⁰⁰ *Supra* ¶¶ 47, 50.

Vecchio.³⁰¹ While Ms. Wanamaker was not in the vehicle when Ms. Johnson drove those trips, the preponderance of the evidence supports Ms. Wanamaker's inference that Ms. Johnson drove those trips for Style Car given that the timing of the trips aligned with trips scheduled for CJ Del Vecchio; there was no other driver identified with the name "CJ" in Style Car's system; and Ms. Johnson was the only CJ employed at Style Car.³⁰²

100. Investigator Haislett's search in the TLO law enforcement database revealed the last name Del Vecchio as an alias or a "previously known as" name for Ms. Johnson, and that Del Vecchio is the last name of one of Ms. Johnson's family members.³⁰³

101. In addition to above evidence, Ms. Johnson's emails to Investigator Haislett's alias confirm that Ms. Johnson continued to act as a driver for Style Car as recently as March 2022.³⁰⁴ Not only did Ms. Johnson's signature block on her emails list her as a "Chauffeur" but Ms. Johnson's statements in those emails specifically refer to recent trips that she drove.³⁰⁵

Based on the foregoing, and the record as a whole, the ALJ concludes that the preponderance of the evidence establishes that Ms. CJ Johnson is the person identified as CJ Del Vecchio in Hearing Exhibit 100. Consistent with the above discussion, the ALJ also finds that the preponderance of the evidence establishes that Ms. Johnson acted as a driver for Style Car, and much more.³⁰⁶

³⁰¹ *Id.*

³⁰² *Supra* ¶ 50.

³⁰³ 12/12/22 Tr., 86: 24- 25—87: 1-3.

³⁰⁴ Hearing Exhibit 113 at 3-11.

³⁰⁵ *Id.* at 6, 10.

³⁰⁶ *See* 12/12/22 Tr., 177: 14-18; 255: 13-19; Hearing Exhibits 103, 113, 107; *supra* ¶ 33, 34, 85.

102. Count 8 alleges that on August 19, 2019, Style Car violated Rule 6107(a)(II), by requiring or permitting a person, Ms. Johnson, who does not meet the driver minimum qualifications, to act as a driver and that Ms. Johnson did not have a valid driver's license on that date.³⁰⁷ Ms. Johnson's certified driving record from the DMV states that her license was revoked on August 19, 2019 for a "Dui Conviction," and on August 20, 2019 for a "Refusal."³⁰⁸ As such, the evidence establishes that Ms. Johnson's license was revoked as early as August 19, 2019. But the evidence does not establish that Ms. Johnson drove a trip for Style Car on August 19, 2019. As noted, the primary evidence of Ms. Johnson's driving record for Style Car is Hearing Exhibit 100, but it does not indicate that Ms. Johnson drove for Style Car on August 19, 2019.³⁰⁹

103. Staff presented no other evidence indicating that Ms. Johnson drove for Style Car on August 19, 2019. For these reasons, the ALJ concludes that Staff failed to meet its burden as to Count 8 and dismisses that Count.

104. Counts 11 through 27 allege that Style Car violated Rule 6114(i)(II), by permitting a driver, Ms. Johnson, to drive despite having been disqualified and prohibited from driving under Rule 6114(f) on: July 17, 2020 (Count 11); July 20, 2020 (Count 12); July 22, 2022 (Count 13); July 24, 2020 (Count 14); July 25, 2020 (Count 15); twice on July 29, 2020 (Counts 16 and 17); August 1, 2020 (Count 18); twice on August 4, 2020 (Counts 19 and 20); twice on August 5, 2020 (Counts 21 and 22); twice on August 7, 2020 (Counts 23 and 24); August 8, 2020 (Count 25); and twice on August 11, 2020 (Counts 26 and 27).³¹⁰

³⁰⁷ Hearing Exhibit 119 at 2.

³⁰⁸ Hearing Exhibit 106 at 4 ("Withdrawal of Privilege").

³⁰⁹ See Hearing Exhibit 100.

³¹⁰ Hearing Exhibit 119 at 4-6.

105. As noted, the preponderance of the evidence establishes that Ms. Johnson's license was revoked as early as August 19, 2019. The evidence also establishes that the Commission disqualified Ms. Johnson from driving via letter dated November 19, 2019, and that at the latest, by March 2020, both Ms. Johnson and Mr. VanDriel were aware that the Commission disqualified Ms. Johnson from driving for Style Car.³¹¹ Counts 11 to 27 allege that Ms. Johnson drove for Style Car between July 17, 2020 and August 11, 2020, well after both Ms. Johnson and Mr. VanDriel were aware that Ms. Johnson was disqualified from driving.

106. The ALJ has already determined that Hearing Exhibit 100 is an accurate Style Car record of Ms. Johnson's trips for Style Car. Hearing Exhibit 100 shows that the trip identified in Count 13 was cancelled; no contrary evidence was presented.³¹² As such, the ALJ finds that the preponderance of the evidence establishes that the trip identified in Count 13 was cancelled, and therefore, that Ms. Johnson did not perform that trip. For these reasons, the ALJ finds that Staff failed to meet its burden as to Count 13 and dismisses that Count.

107. As to the remaining Counts, Ms. Johnson's driving record for Style Car shows that she performed the alleged trips.³¹³ Ms. Johnson's plea for the Commission to reinstate her driving privileges further establishes that she drove for Style Car around the time she wrote the March 2020 letter. Indeed, in the letter, she expressly states that she pays "the additional amount that the insurance increased due to my mishap."³¹⁴ There would be no reason to pay extra for car insurance or to inform the Commission of this fact if she was not still driving for Style Car; nor would there be any reason to ask for her driving privileges to be reinstated. In the letter, she also

³¹¹ Hearing Exhibit 107 at 1-4. *See supra*, ¶¶ 25, 26, 58, 59.

³¹² Hearing Exhibits 100C at 56 and 207C.

³¹³ Hearing Exhibit 100C at 56-60.

³¹⁴ Hearing Exhibit 107 at 3.

states that losing her job would be devastating.³¹⁵ If she were not a driver for Style Car, she would have no reason to believe she would lose her job because she was disqualified from driving. And, as noted, Ms. Johnson's emails to Investigator Haislett's alias establish that she was actively driving for Style Car as recently as March 2022, including a late or overnight trip.³¹⁶ For these reasons, and based on the record as a whole, the ALJ concludes that the preponderance of the evidence establishes that Ms. Johnson performed the trips alleged in Counts 11 to 27.³¹⁷ Given this, and the other findings discussed above, the ALJ concludes that Staff met its burden as to Counts 11, 12, 14, 15, and 18 to 27. The ALJ also finds that the preponderance of the evidence establishes that both Style Car, though its sole owner and CEO, (Mr. VanDriel), and Ms. Johnson were aware that Ms. Johnson had been disqualified from driving for Style Car when she drove the trips identified in Counts 11, 12, 14, 15, and 18 to 27.³¹⁸ Similarly, the preponderance of the evidence establishes that Style Car, through its sole owner and CEO, (Mr. VanDriel), allowed or directed Ms. Johnson to perform the trips identified in the referenced Counts.³¹⁹

108. Counts 16 and 17 allege that Ms. Johnson transported passengers between Colorado and Wyoming, which is plainly interstate transportation. As explained above, § 40-7-111, C.R.S., prohibits the Commission from applying or construing articles 1 to 7 of title 40 to interstate commerce, unless otherwise specifically stated in those articles or permitted by the United States Constitution or Congress.³²⁰ Staff presented no evidence or arguments that would

³¹⁵ *Id.*

³¹⁶ Hearing Exhibit 113 at 6.

³¹⁷ The ALJ gives no weight to Mr. VanDriel's testimony that he drove the trips that the CPAN alleges that Ms. Johnson drove. Given that Mr. VanDriel created Hearing Exhibits 201 and 201C to support his testimony that he drove those trips, the ALJ does not rely on those exhibits. Indeed, given Mr. VanDriel's significant credibility issues, relying on these exhibits—which Mr. VanDriel created—would essentially amount to relying on Mr. VanDriel's testimony that the exhibits are true and accurate.

³¹⁸ Hearing Exhibit 107 at 1-4. *See supra*, ¶¶ 25, 26, 58, 59.

³¹⁹ Hearing Exhibit 107 at 1-4. *See supra*, ¶¶ 25, 26, 58, 59.

³²⁰ *Supra*, ¶ 72.

establish that the civil penalty assessment provisions in article 7 of title 40 allow the Commission to assess a penalty based upon interstate transportation, or that the United States Constitution or other federal statute permits the same, and the ALJ finds none. For these reasons, the ALJ concludes that § 40-7-111, C.R.S., bars the Commission from issuing a civil penalty for Counts 16 and 17, as this would directly construe provisions in article 7 of title 40 to apply to interstate transportation. As such, Counts 16 and 17 are dismissed.

5. Count 28

109. Count 28 alleges that on October 27, 2021, Style Car violated § 40-10.1-107(1), C.R.S., by failing to maintain and file evidence of financial responsibility in sums required by the Commission for a 2011 Lincoln MKT with Colorado registration OKM655, VIN ending 2843.³²¹ This Count also alleges that Style Car’s certificate of insurance from Progressive Insurance identifies the covered vehicles as a 2011 Lincoln MKT with a VIN ending 3587 (2011 MKT) and a 2012 Lincoln MKT with a VIN ending 4313 (2012 MKT), and that the VIN number listed on the policy for the 2011 MKT does not match the vehicle inspected on March 14, 2022 (during the SCR).³²²

110. In its Motion to Dismiss, Style Car argues this Count should be dismissed because the CPAN does not state a valid claim and because it had a “proper policy” under the Commission’s rules in effect on the date of the alleged violation.³²³ In support, Style Car argues

³²¹ Hearing Exhibit 119 at 6.

³²² *Id.*

³²³ Motion to Dismiss at 3.

that Rule 6008(b)(III) states that carriers must have insurance that covers all vehicles which may be operated by or for the motor carrier or which may be under the control of the motor carrier, “regardless of the whether such Motor Vehicles are specifically described in the policy or amendments or endorsements thereto.”³²⁴ Style Car argues that this Rule language renders the CPAN allegation insufficient on its face. Style Car filed a copy of the proof of insurance in (Commission Form E) on file with the Commission for the relevant time-period, which was admitted into evidence as Hearing Exhibit 203.

111. Staff responds that the CPAN adequately describes the alleged violation, and that an exhaustive description of all facts that support the charge is unnecessary under § 40-7-116, C.R.S.³²⁵

112. To start, this Count charges a violation of a § 40-10.1-107(1), C.R.S., not Rule 6008(b). Because Style Car’s arguments focus on the requirements of Rule 6008(b), not the statute charged, its arguments are misplaced and not relevant to the Count.³²⁶ As such, Style Car’s argument is rejected.

113. Under § 40-10.1-107(1), C.R.S., motor carriers must maintain and file with the Commission evidence of financial responsibility as the Commission deems necessary to adequately safeguard the public interest. The plain language of this provision includes two distinct and separate requirements: maintaining insurance *and* filing proof of insurance with the

³²⁴ *Id.* at 3, quoting Rule 6008(b)(III), 4 CCR 723-6.

³²⁵ Staff’s Response at 9.

³²⁶ Although Rule 6008(b) is not at issue, the ALJ notes that Style Car interprets the Rule so as to drive a train-sized loophole through it that would allow a carrier to avoid obtaining insurance covering all vehicles that it operates and controls. This nonsensical interpretation defeats the purpose of the Rule, which is to ensure that carriers have insurance coverage for their vehicles.

Commission.³²⁷ At issue here is whether Style Car maintained proof of financial responsibility, *i.e.*, insurance for a vehicle that it operated or controlled, not whether it filed proof of financial responsibility.

114. The preponderance of the evidence establishes that Style Car owns the vehicle alleged in Count 28, that is, a 2011 Lincoln MKT with Colorado registration OKM655, and VIN ending 2843.³²⁸ The evidence also establishes that Style Car represented to Investigator Haislett during the March 14, 2022 SCR that this same vehicle is one of the two vehicles it uses to provide service under its Commission-issued permit; that Investigator Haislett inspected this vehicle during the SCR; and that the same vehicle was not covered by Style Car's insurance from October 27, 2021 to October 27, 2022.³²⁹ Although the inspection took place many months after the alleged violation date (October 27, 2021), the evidence also establishes that Style Car owned and controlled the vehicle as of the violation date.³³⁰ Style Car's proof of insurance filed with the Commission (its Form E), does not identify the vehicles that are covered, and thus, does not establish that it had insurance coverage for the vehicle at issue. Indeed, the policy referenced in the Form E makes it clear that Style Car did not have insurance coverage for the relevant vehicle on October 27, 2021.³³¹ For all of these reasons, the ALJ finds that Staff met its burden as to Count 28.

6. Counts 29 and 30

115. Count 29 alleges that on February 14, 2019, Style Car violated § 40-10.1-302(1)(a), C.R.S., by operating or offering to operate as a luxury limousine carrier in

³²⁷ *In re Marriage of Davisson*, 797 P.2d at 810.

³²⁸ Hearing Exhibit 110C at 4; *supra*, ¶ 66.

³²⁹ Hearing Exhibits 110C at 4, 116C at 2, and 118 at 1-2; *supra* ¶¶ 34, 35, 41.

³³⁰ See Hearing Exhibit 110 at 4.

³³¹ Hearing Exhibit 110C at 4 and Hearing Exhibit 116C at 2.

intrastate commerce without first having obtained a permit from the Commission.³³² This Count also alleges that Ms. Johnson drove for Style Car on February 14, 2019, and that she performed two more trips before Style Car's permit was effective on February 25, 2019.³³³

116. Count 30 alleges that on May 10, 2022, Style Car violated § 40-10.1-302(1)(a), C.R.S., by operating or offering to operate as a luxury limousine carrier in intrastate commerce without first having obtained a permit from the Commission.³³⁴ This Count also alleges that Style Car's permit expired on April 12, 2022, and that while its permit was inactive, Style Car offered limousine service on May 10, 2022.³³⁵

117. Under § 40-10.1-302(1)(a), C.R.S., persons may not operate or offer to operate a luxury limousine service in intrastate commerce without first having obtained a permit from the Commission.

118. The evidence establishes that Style Car's permit first became effective on February 25, 2019.³³⁶ The evidence also establishes that Style Car provided luxury limousine transportation in intrastate commerce on February 14, 2019, and several other dates in February 2019 before its permit became effective on February 25, 2019.³³⁷

119. The evidence establishes that Style Car's 2021-2022 permit expired on April 12, 2022 and that Ms. Johnson, on behalf of Style Car, submitted a renewal application for Style Car's permit on April 19, 2022.³³⁸ This renewal application was approved effective May 23, 2022, leaving a gap from April 12 to May 22, 2022 within which Style Car did not have an active

³³² Hearing Exhibit 119 at 7.

³³³ *Id.*

³³⁴ *Id.*

³³⁵ *Id.*

³³⁶ Hearing Exhibit 102 at 3; *supra*, ¶ 15.

³³⁷ Hearing Exhibit 100 at 1-2. *See also supra*, ¶ 111.

³³⁸ Hearing Exhibit 103; 12/12/22 Tr., 70: 9-11; 72: 17-19. *See also*, Hearing Exhibit 102 at 3.

Commission-issued luxury limousine permit.³³⁹ The preponderance of the evidence also establishes that despite not having an active and effective permit, on May 10, 2023, Style Car offered to provide luxury limousine transportation in intrastate commerce to Investigator Swint's alias.³⁴⁰ Given that § 40-10.1-302(1)(a), C.R.S., requires a valid Commission permit before offering to provide luxury limousine service in intrastate commerce, it makes no difference that Style Car did not actually provide that transportation.

120. For the reasons and authorities discussed, the ALJ concludes that Staff met its burden as to Counts 29 and 30.

D. Civil Penalty Assessment

121. The Commission may assess a civil penalty up to the amount specified in statute, or in Commission rules after adjudicating a respondent liable for a violation.³⁴¹ Having adjudicated Style Car as having committed the violations alleged in Counts 1 to 4, 6, 7, 9 to 12, 14, 15, and 18 to 30, the ALJ evaluates the appropriate civil penalty to assess for these violations.

122. In determining the appropriate civil penalty, the Commission considers evidence relating to the nature, circumstances, and gravity of the violation; the degree of the respondent's culpability; the respondent's history of prior offenses; the respondent's ability to pay; respondent's good faith efforts to achieve compliance and to prevent future similar violations; the effect on the respondent's ability to continue in business; the size of respondent's business; and such other factors as equity and fairness may require.³⁴²

³³⁹ Hearing Exhibit 104; Hearing Exhibit 103 at 1.

³⁴⁰ Hearing Exhibit 115C at 1-3.

³⁴¹ Rule 6018(e), 4 CCR 723-6.

³⁴² Rule 1302(b), 4 CCR 723-1.

123. Each occurrence of a violation and each day that a violation continues constitutes a separate violation that is subject to a civil penalty.³⁴³ In addition to a civil penalty, the Commission may also assess a surcharge of up to 15 percent of the assessed penalty, per § 24-34-108(2), C.R.S.

124. Counts 1 to 4, 6 and 7 involve six violations of Rule 6102. The maximum civil penalty for violating Rule 6102 is \$400 per count, totaling \$2,400 for all of these Counts.³⁴⁴ With a 15 percent surcharge of \$360, the total maximum civil penalty and surcharge for Counts 1 to 4, 6 and 7 is \$2,760.

125. Count 9 involves a violation of Rule 6109(a). The maximum civil penalty for violating Rule 6109 is \$1,100 per count.³⁴⁵ With a 15 percent surcharge of \$165, the total maximum civil penalty and surcharge for Count 9 is \$1,265.

126. Counts 10 to 12, 14, 15, and 18 to 27 involve 15 violations of Rule 6114. The maximum civil penalty for violating Rule 6114 is \$1,100 per count, totaling \$16,500 for all of these Counts.³⁴⁶ With a 15 percent surcharge of \$2,475, the total maximum civil penalty and surcharge for these Counts is \$18,975. Although Rule 6108(e) establishes \$1,100 as the maximum penalty for violating Rule 6114, the CPAN identifies \$225 as the maximum penalty, with a 15 percent surcharge of \$33.75 per Count.³⁴⁷ Given that Staff is required to provide notice of the maximum penalty for each CPAN count, the ALJ will consider the civil penalty for these Counts consistent with the maximum amounts listed in the CPAN. This results in a total

³⁴³ Rule 6018(d), 4 CCR 723-6. *See* § 40-7-115, C.R.S.

³⁴⁴ Rule 6018(e), 4 CCR 723-6.

³⁴⁵ *Id.*

³⁴⁶ *Id.*

³⁴⁷ Hearing Exhibit 119 at 3-6.

maximum civil penalty for these Counts of \$3,375, with a 15 percent surcharge of \$506.25, totaling \$3,881.25.

127. Count 28 involves a violation of § 40-10.1-107(1), C.R.S. The maximum civil penalty for violating § 40-10.1-107(1), C.R.S., is \$11,000 per violation.³⁴⁸ With a 15 percent surcharge of \$1,650, the total maximum civil penalty and surcharge for Count 28 is \$12,650.

128. Counts 29 and 30 involve violations of § 40-10.1-302(1)(a), C.R.S. The maximum civil penalty for violating § 40-10.1-302(1)(a), C.R.S., is \$1,100.³⁴⁹ As such, the total maximum civil penalty for Counts 29 and 30 is \$2,200, with a 15 percent surcharge of \$330, totaling \$2,530.

129. Based on the above, the total civil penalty and surcharge that may be assessed for the adjudicated violations is \$23,086.25.

130. The evidence establishes numerous aggravating factors. Significantly, all of the violations present safety risks for the traveling public.³⁵⁰ For example, allowing persons to drive who the Commission has disqualified and prohibited from driving, who have not been medically qualified, and who have not performed the required fingerprint-based criminal history check presents safety risks for the public.³⁵¹ Using uninsured vehicles to provide service to the public also presents obvious risks to the public, risks that the General Assembly has determined warrant a significant penalty of \$11,000 for a single violation.³⁵²

³⁴⁸ § 40-7-113(1)(a), C.R.S.; Rule 6018(e), 4 CCR 723-6.

³⁴⁹ § 40-7-113(1)(b), C.R.S.; Rule 6018(e), 4 CCR 723-6.

³⁵⁰ Rules 6100 to 6117 are designated as the Commission's "Safety Rules." Each of the rules that Style Car violated are part of these Safety Rules.

³⁵¹ See Counts 9 through 12, 14, 15, and 18 through 27.

³⁵² See Count 28. § 40-7-113(1)(a), C.R.S.

131. Failing to pay the annual identification fee for each vehicle that Style Car owns, controls, operates or manages in Colorado also creates safety risks for the public because paying the fee registers the vehicles with the Commission; without that information, the Commission would be unaware of all the vehicles the carrier may use in its business, and thus cannot confirm that the vehicles meet safety standards.³⁵³ Similarly, operating or offering to operate without a valid Commission permit could also result in risk to the public because carriers must comply with numerous Commission rules and statutes intended to safeguard the travelling public before a permit issues (*e.g.*, passing initial and periodic vehicle inspections per Rule 6104(a) and (b) and providing proof of insurance per § 40-10.1-107, C.R.S.).

132. As discussed in detail, Mr. VanDriel's testimony presented significant credibility issues. At their core, Mr. VanDriel's credibility issues arise from attempts to obfuscate and mislead; this is yet another aggravating circumstance. Style Car has a high degree of culpability as to Counts 11, 12, 14, 15, and 18 to 27 given that its sole owner and CEO, Mr. VanDriel, was well aware that Ms. Johnson had been disqualified from driving when she drove the trips identified in those Counts. And, even though Style Car was aware that the Commission was investigating a complaint against it, Style Car continued to allow Ms. Johnson to drive (as recently as March 2022). This is evidenced by Ms. Johnson's emails to Investigator Haislett's alias, which identify her as a "Chauffeur," and include statements about recent trips that she drove for Style Car.³⁵⁴

³⁵³ See Counts 1 to 4, 6 and 7. See *e.g.*, Rules 6100 to 6117, the Commission's Safety Rules.

³⁵⁴ Hearing Exhibit 113 at 3-13.

133. Counts 1 to 4, 6 and 7 involve violations of Rule 6102(b)(I), which require an annual identification fee to be paid for each vehicle that Style Car “owns, controls, operates, or manages within” Colorado. While the evidence established that Style Car paid the annual fee for the vehicles described in Counts 2 and 4 several months after the fees were due, Style Car did so just one day before the March 14, 2022 SCR, which raises questions as to whether Style Car would have acted at all if there were no SCR scheduled. Setting that aside, Style Car’s failure to timely pay the annual identification fee for its vehicles in 2020 and 2021 suggests a pattern of failing to timely pay the required fee.

134. As explained elsewhere, Rule 6102(b)(I) does not limit the annual identification fee to those vehicles that the carrier operates in Colorado; nor does the parallel statutory provision upon which the Rule is based, § 40-10.1-111(1)(f), C.R.S. As such, whether Style Car operated the vehicles identified in Counts 1 to 4, 6 and 7 is not dispositive of whether it violated Rule 6102(b)(I) or § 40-10.1-111(1)(f), C.R.S. Nonetheless, evidence as to whether Style Car operated or offered to operate the vehicles alleged in those Counts before paying the annual identification fee may present aggravating or mitigating factors relevant to determining the appropriate civil penalty. Below, the ALJ considers such evidence.

135. The evidence establishes that Style Car assigned a “Cadillac DTS Pro Limousine,” and a Mercedes “Sprinter” to numerous intrastate trips.³⁵⁵ In his email to Investigator Haislett’s alias, Mr. VanDriel said that Style Car has “many vehicles, including 2 Lincoln Limos that seat 8, one white and one black, as well as a Cadillac Limo that seats 4. We

³⁵⁵ See e.g., Hearing Exhibit 100 at 5, 8, 10- 21, 23, 25, 26, 28-33, 35, 43, 52, 53, 56, 57, 59-63, 65-76, 79, 88, 89, 92, 95, 97, 100, 103, 105, 108, 109, 113, 114, 116, 118, 119-124, 126, 127, 132, 134, 135 (assigning Cadillac limousine to trips); at 65, 69, 71 (assigning Sprinter to trips).

also have several Lincoln Sedans that we could use . . .”³⁵⁶ And, in the quote provided to Investigator Haislett’s alias, Style Car listed an “MKT 4” as a vehicle that could be used to perform intrastate transportation.³⁵⁷ As Ms. Wanamaker testified, Style Car identified its numerous Lincolns by numbering them MKT 1, 2, 3, and 4, which is consistent with the fact that Style Car owned four Lincoln MKTs that it used for intrastate transportation.³⁵⁸ Mr. VanDriel agreed that Style Car referred to the Lincoln MKTs in this way (by numbering them).³⁵⁹ All of this is consistent with Ms. Wanamaker’s testimony that Style Car owned and operated four Lincoln MKTs, a Cadillac limousine, Mercedes bus, and a Lincoln limousine.³⁶⁰

140. Style Car’s website confirms that it operated or offered to operate a Cadillac Limousine and Mercedes Sprinter in intrastate commerce, in addition to a Lincoln Limousine, a 22-Passenger Coach, and a Lincoln MKT, all of which the website describes as Style Car’s “actual” vehicles registered with the Commission.³⁶¹ And the evidence establishes that Style Car offered to operate or operated a Mercedes Sprinter, Cadillac and Lincoln limousines, and numerous Lincoln MKTs in intrastate commerce.³⁶² Mr. VanDriel’s testimony that these vehicles are not operated in Colorado contradicts all of this evidence. And, during the SCR, Style Car presented the vehicle identified in Count 4 as one of the two vehicles it operates under its

³⁵⁶ Hearing Exhibit 113 at 2. Mr. VanDriel’s statements in this email contradict his testimony that Style Car operates numerous vehicles that it owns only in Wyoming. *See supra*, ¶ 66.

³⁵⁷ *Id.* at 13.

³⁵⁸ 12/12/22 Tr., 56: 1-17.

³⁵⁹ *See id.* at 228: 2-8; 229: 1-2.

³⁶⁰ *Id.* at 24: 20-23; 55: 7-11; 55: 23-25—56: 1-4.

³⁶¹ Hearing Exhibit 111 at 1-5. Although the relevant CPAN Counts do not make allegations about a Lincoln limousine or 22-Passenger Coach, Style Car’s website confirms that it offered to operate numerous vehicles in intrastate commerce beyond the two that Mr. VanDriel testified that Style Car operates in Colorado.

³⁶² *See e.g.*, Hearing Exhibit 113 at 13 (offering two Lincoln Limos, and “several Lincoln Sedans” to transport passengers within Colorado); Hearing Exhibit 114 at 1 (offering a 12-passenger Mercedes Sprinter to transport passengers within Colorado); Hearing Exhibit 115C at 1 (offering to use “Lincoln stretch limos” to transport passengers within Colorado); Hearing Exhibit 100 at 5, 8, 10-31, 33, 35, 40, 43, 52, 53, 55-63, 65-76, 78, 79, 83, 87, 88-97, 100, 103, 105, 108-110, 112-114, 116, 118-124, 126, 127, 130, 132, 134-139 (assigning Cadillac pro limousine or “LIMO” to trips within Colorado).

permit.³⁶³ For the above reasons, the ALJ finds that the preponderance of the evidence establishes that Style Car operated or offered to operate the vehicles alleged in Counts 1 to 4, 6 and 7 in intrastate commerce. This adds to the gravity of Style Car's violations of Rule 6102(b)(I).

141. The CPAN is not heavy-handed. Indeed, Staff did not charge Style Car with all of the violations that it could have or actually did prove. Ms. Johnson drove a significant number of trips after her driver's license was revoked, and after the Commission disqualified her from driving.³⁶⁴ Staff only charged Style Car with 20 Counts arising out of those actions. And Ms. Johnson continued to drive for Style Car in March 2022 when Style Car was aware that it was under investigation.³⁶⁵

142. Likewise, Mr. Harris drove for 22 separate days in February 2022, for a total of 106 driving hours before he was medically examined and certified and submitted his fingerprints for a criminal history check.³⁶⁶ He started working for Style Car in November 2021, so his February driving was likely just the tip of the iceberg.³⁶⁷ Staff only charged Style Car with two counts arising out of those failures.

143. Staff could have also charged Style Car for additional counts of failing to maintain insurance given that Style Car's policy did not reflect coverage for both vehicles inspected during the SCR, and that each day a violation occurs is considered a separate count.

³⁶³ Hearing Exhibit 118 at 1-2; Hearing Exhibit 119 at 1-2. *See supra*, ¶ 34.

³⁶⁴ *See* Hearing Exhibit 100 at 10 to 139; Hearing Exhibit 113 at 6, 10.

³⁶⁵ Hearing Exhibit 113 at 6, 10.

³⁶⁶ Hearing Exhibit 109 at 1. *Supra*, ¶¶ 37; 38.

³⁶⁷ *Supra*, ¶ 36.

144. As noted, the CPAN essentially reduces the maximum civil penalty for the majority of the violations by noticing a lower maximum penalty amount; this results in \$15,093.75 less in potential civil penalties than what the law would allow.³⁶⁸

145. The only efforts that Style Car made to come into compliance with the relevant Commission rules or statutes were immediately before or after the SCR. This does not provide assurances that Style Car will comply with Commission rules in the future without a pending investigation or action against it, particularly given that violations continued after Style Car was aware that it was under investigation.

146. Style Car appears to be a smaller company given that the evidence demonstrated that it had only a few drivers at a given time, but the record includes no evidence as to the size of Style Car's business. Likewise, the record lacks evidence as to Style Car's ability to pay a civil penalty and continue in business if assessed a civil penalty. The record lacks other mitigating evidence, including evidence relating to equity and fairness.

147. Given that Style Car is likely a smaller company, and that it showed some degree of accountability for the violations alleged in Counts 9 and 10 by admitting them, the ALJ will not assess the maximum allowable penalty.

148. Having considered all the factors in Rule 1302(b), 4 CCR 723-1, and the evidence as a whole, the ALJ assesses Style Car a total civil penalty of \$20,000, which includes the 15 percent allowable surcharge. The ALJ does not assess this penalty lightly. Ultimately, however, the public interest and safety have to take priority over Style Car's private interests. To be sure, the Commission's investigation into Style Car was prompted by safety concerns. It is fortunate that Style Car's violations did not result in harm to the public safety, but they easily could have.

³⁶⁸ *Supra*, ¶ 130.

To ensure that Style Car complies with Commission Rules and relevant statutes, particularly those aimed at protecting the travelling public, a hefty penalty is necessary. The ALJ finds that the assessed penalty and surcharge will encourage Style Car's future compliance with Commission rules and the relevant statutes and is appropriate in light of the circumstances here.

149. In accordance with § 40-6-109, C.R.S., the ALJ transmits to the Commission the record in this proceeding along with this written recommended decision and recommends that the Commission enter the following order.

IV. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, Style Car Services LLC (Style Car) is adjudicated as having committed the Rule and statutory violations in Counts 1 to 4, 6, 7, 9 to 12, 14, 15, and 18 to 30 in Civil Penalty Assessment Notice No. 129862 (CPAN) in this Proceeding.

2. As explained above, Style Car is assessed total a civil penalty and surcharge of \$20,000 for the above violations, Counts 1 to 4, 6, 7, 9 to 12, 14, 15, and 18 to 30 of the CPAN. This amount represents the total civil penalty assessed for the violations plus the 15 percent surcharge assessed per § 24-34-108, C.R.S.

3. Style Car must pay the total amount due within 30 days of the date that this Recommended Decision becomes the decision of the Commission, if that is the case.

4. Style Car is required to work with Public Utilities Commission Staff (Staff) to pay the assessed penalty and surcharge.

5. Counts 8, 13, 16 and 17 of the CPAN in this Proceeding are dismissed with prejudice consistent with the above discussion.

6. This Proceeding is closed.
7. The Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.
8. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.
 - a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
 - b. If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

9. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded. Responses to exceptions are due within seven days of the date exceptions are served.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Rebecca E. White'.

Rebecca E. White,
Director