

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24M-0556TO

IN THE MATTER OF THE PETITION OF BULLDOGS RECOVERY L.L.C. TO REVERSE AN INITIAL TOWING PERMIT DENIAL PURSUANT TO 40-10.1-401(2)(B), C.R.S., AND RULE 6504(D).

**RECOMMENDED DECISION
GRANTING PETITION**

Issued Date: August 20, 2025

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I. STATEMENT

1. On December 20, 2024, Mr. Juan Fernandez, president of Bulldogs Recovery L.L.C (“Petitioner”), filed a Petition to reverse an initial towing permit denial pursuant to § 40-10.1-401(2)(b), C.R.S. and Commission Rule 6504(d).

2. On January 8, 2025, the matter was referred by minute entry to an Administrative Law Judge (“ALJ”) for disposition during the Commission's Weekly Meeting.

3. On January 8, 2025, Trial Staff of the Public Utility Commission (“Staff”) filed its Notice of Intervention as of Right, Entry of Appearance and Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.

4. On January 22, 2025, by Decision No. R25-0047-I, the parties were ordered to file an update on open court cases concerning the Petitioner. The filing was required to be made by March 7, 2025.

5. On March 7, 2025, Staff made a filing with an update on the open court cases involving the Petitioner. The Petitioner did not make the ordered filing.

6. On March 20, 2025, by Decision No. R25-0204-I, a prehearing conference was scheduled for April 16, 2025.

7. On April 24, 2025, by Decision No. R25-0308-I, a procedural schedule was adopted.

8. On May 9, 2025, the Petitioner filed his Extension Request. The Extension Request was filed due to a state court case that was pending against the Petitioner.

9. On May 14, 2025, by Decision No. R25-0362-I, the undersigned ALJ, *sua sponte*, stayed the proceedings until the Petitioner advised the Commission that he could continue the Proceeding.

10. On May 14, 2025, Petitioner made a filing stating his state case had concluded and wished the stay in the above-captioned proceeding be lifted.

11. On May 27, 2025, by Decision No. R25-0402-I, the stay was lifted and the matter set for hearing on July 22, 2025.

12. The hearing in this matter was convened as scheduled on July 22, 2025. Petitioner appeared *pro se*. Staff appeared through its counsel. The Petitioner testified on his own behalf. Staff presented the testimony of Investigator Lloyd Swint and Nate Riley. Exhibits 200 thru 208¹ were admitted. At the conclusion of the hearing, the ALJ took the matter under advisement.

13. On July 25, 2025, Staff filed a copy of Decision No. R24-0432 in Proceeding 23M-0473TO.

14. In reaching this Recommended Decision the ALJ has considered all arguments presented, including those arguments not specifically addressed in this Decision. Likewise, the ALJ has considered all evidence presented at the hearing, even if the evidence is not specifically addressed in this Decision.

15. Pursuant to § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record of the hearing and a written recommended decision in this matter.

II. FINDINGS OF FACT

16. Lloyd Swint is the manager of the investigations and compliance unit for the Commission. Hr. Tr. July 27, 2025, p. 133: 1.7-14.

17. Nathan Riley is the Section Chief for Transportation for the Commission. Hr. Tr. July 27, 2025, p. 221: 1.4-10.

18. Juan Fernandez and Sheena Fisher (aka Sheena Fernandez) were married in Denver County on April 20, 2017. *Id.*

19. On April 13, 2021, a towing carrier permit was issued, under the name Hooked & Booked Towing (T-05202). The owner of Hooked and Booked was listed as Sheena Fernandez. *Hearing Exhibit 200 p.1.*

¹ Confidential versions of Exhibits 201 thru 206 and 208 were also admitted.

20. On June 30, 2021, Hooked & Booked Towing permit No. T-05202 was suspended. *Id.*

21. On August 10, 2021, Hooked & Booked Towing permit No. T-05202 was revoked, due to a failure to maintain insurance. *Id.*

22. On May 19, 2022, Mr. Juan Fernandez was issued a new towing carrier permit No. T-05347 under the name Fernandez Towing. Mr. Fernandez was listed as the owner. *Hearing Exhibit 200 p.2.*

23. On November 9, 2022, Fernandez Towing permit No. T-05347 was suspended. *Id.*

24. On December 23, 2022 Fernandez Towing permit No. T-05347 was revoked, due to a failure to maintain insurance. *Id.*

25. On May 10, 2023, Hooked & Booked Towing permit No. T-05202 was reactivated. The owner of the towing carrier was listed as Sheena Fernandez. *Id.*

26. On October 18, 2023, Hooked & Booked Towing permit No. T-05202 was suspended. *Id.*

27. On November 12, 2023, Mr. Fernandez was named as a suspect in an Aggravated Robbery report completed by the Adams County Sheriff's Office. No charges were ever filed against Mr. Fernandez. *Id. at p.3*

28. On December 12, 2023, Hooked & Booked Towing permit No. T-05202 was revoked, due to a failure to maintain insurance. *Id. at p. 2*

29. On February 25, 2024, Mr. Fernandez was named as a suspect in a 3rd Degree Motor Vehicle Theft report completed by the Adams County Sheriff's Office. No charges were ever filed against Mr. Fernandez. *Id. at p. 3*

30. On May 17, 2025, a Probable Cause (“PC”) warrant was issued for Mr. Fernandez alleging four class 5 felonies out of the same incident. *Hearing Exhibit 205C*.

31. On May 22, 2025, the PC warrant was cancelled due Mr. Fernandez being arrested on an unrelated matter. This PC warrant matter was assigned Adams County criminal case number 24 CR 1507. Mr. Fernandez was released on a \$5,000 cash or surety bond. *Id.*

32. On June 25, 2024, a complaint was received by Staff alleging Hooked & Booked Towing (T-05202) unlawfully towed a vehicle on May 25, 2024. This incident resulted in a Civil Penalty Assessment Notice (“CPAN”) being issued to Shenna Fernandez. *Hearing Exhibit 204*.

33. On September 8, 2024, Mr. Fernandez was stopped by Adams County Sheriff’s Deputy Brandon Neel after the report of a felony menacing. Mr. Fernandez was taken into custody and later released when a video exonerated him. *Hearing Exhibit 206C*

34. On September 18, 2024, Mr. Fernandez submitted a towing carrier permit application, under the name Bulldogs Recovery L.L.C. and was listed as the President of this towing carrier. Mr. Fernandez had secured the Commission required insurance for operating as a towing carrier. *Hearing Exhibit 208*.

35. On September 23, 2024, Mr. Fernandez was stopped while operating a vehicle by Adams County Sheriff’s Deputy Brandon Neel because the deputy was aware from prior contacts that the license plates on the vehicle Mr. Fernandez was operating had been cancelled. Deputy Neel then had Mr. Fernandez’s vehicle towed. Mr. Fernandez became uncooperative during the towing of his vehicle and was handcuffed. He was then released on summons and no case was ever filed. *Hearing Exhibit 207C40-10.1*

36. On October 29, 2024, a denial letter was sent to Mr. Fernandez. *Hearing Exhibit 200*.

37. On May 14, 2025, Mr. Fernandez pled guilty to a class 1 misdemeanor in Adams County criminal case number 24 CR 1507. The State dismissed all felony counts against Mr. Fernandez in case number 24 CR 1507.

III. ISSUES

38. Should Petitioner's application for a towing permit be denied in the State of Colorado because it would not be in the public interest pursuant to § 40-10.1-401(2)(b)?

IV. APPLICABLE LAW

39. Section 40-10.1-401(2)(b) states:

The commission may deny an application for or suspend, revoke, or refuse to renew a permit of a towing carrier under this part 4 based on a determination that it is not in the public interest for the towing carrier to possess a permit. The determination is subject to appeal in accordance with commission rules. It is rebuttably presumed that a towing carrier's possession of a permit is not in the public interest if the towing carrier has willfully and repeatedly failed to comply with this article 10.1 or part 18 or 21 of article 4 of title 42.

40. "Public interest" is not defined by statute or Commission Rule. Black's Law Dictionary defines public interest as "[t]he general welfare of a populace considered as warranting recognition and protection" and "[s]omething in which the public as a whole has a stake; [especially], an interest that justifies governmental regulation."² Similarly, Merriam Webster defines "public interest" as "the general welfare and rights of the public that are to be recognized, protected, and advanced."³ The Commission has the discretion to determine what constitutes the "public interest" based on the context in which the term is applied.⁴

² Black's Law Dictionary (11th ed. 2019).

³ <https://www.merriam-webster.com/>

⁴ See *Mountain States Tel. & Tel. Co. v. PUC*, 763 P.2d 1020, 1029 (Colo. 1988) (in discussion about "public interest" in case involving request by telephone company to transfer assets, holding that "[t]he setting of guidelines for utility regulation is within the sole province of the PUC.").

41. The Petitioner bears the burden of proof by a preponderance of the evidence as to claims stated in the Petition.⁵ The preponderance standard requires the finder of fact to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Department of Revenue*, 717 P.2d 507 (Colo. App. 1985). A party has met this burden of proof when the evidence, on the whole, slightly tips in favor of that party.

V. **DISCUSSION**

A. **Previous Commission Decision**

42. During the evidentiary hearing the undersigned ALJ inquired if this was the first time this rule had been used to deny a permit to an applicant. During the hearing Staff stated that it was believed that while the statute had been previously used to deny a permit, the instant case was the first time a denial determination had been challenged in a hearing. Shortly after the hearing Staff discovered a previous matter where Section 40-10.1-401(2)(b) CRS was used to deny a permit and a hearing contesting that determination was held. Staff promptly filed a copy of that decision in this proceeding.

43. The decision filed by Staff was Decision No. R24-0432 in Proceeding No. 23M-0473TO. While this Decision addressed a disqualification under Section 40-10.1-401(2)(b) the subsection was slightly amended as of August 7, 2024, to add the following:

It is rebuttably presumed that a towing carrier's possession of a permit is not in the public interest if the towing carrier has willfully and repeatedly failed to comply with this article 10.1 or part 18 or 21 of article 4 of title 42.

Even with the amendment added, the examination contained in Proceeding 23M-0473TO provides a good starting point to compare to the instant case.

⁵ Section 13-25-127(1), C.R.S.; Rule 1500 of the Rules of Practice and Procedure, 4 CCR 723-1.

44. In Proceeding No. 23M-0473TO it was found that the petitioner in that case had pled guilty to one count of “vehicular manslaughter: reckless driving,” three counts of “vehicular assault: reckless driving,” and two misdemeanors. The vehicular manslaughter and vehicular assault charges which the petitioner pled guilty to were felonies and he was sentenced to nine years in prison and ordered to pay \$50,000 in restitution⁶

45. When the hearing in Proceeding No. 23M-0473TO was held 29 years after the incident, the petitioner had only paid \$2,965.08 of the \$50,000 restitution.⁷

46. In addition, it was shown that the petitioner was convicted of criminal mischief in 2001 for removing his ankle monitoring bracelet while on parole after serving his sentence resulting from the 1995 conviction. The criminal mischief conviction resulted in an additional four-month sentence. He also had an assault charge in 2004 that he testified occurred during a domestic dispute. In addition, two permanent restraining orders were entered and a misdemeanor charge of criminal mischief was filed against the Petitioner.⁸

47. Testimony by Staff in that proceeding was that it was a “close call” but that the totality of the circumstances supported the denial of the application.⁹

48. ALJ Farley held “it is in the public interest for individuals to, at a minimum, make a reasonable good-faith effort and progress towards satisfying restitution judgments resulting from their felony convictions.”¹⁰

49. In the instant proceeding, there is no outstanding restitution order against Mr. Fernandez. Investigator Swint testified that in the one case that led to a misdemeanor

⁶ Decision No. R24-0432 at ¶ 13- 15 issued in Proceeding No. 24M-0556TO on June 21, 2024.

⁷ *Id.* at ¶ 16.

⁸ *Id.* at ¶ 22.

⁹ *Id.* at ¶ 24.

¹⁰ *Id.* at ¶ 39.

conviction, restitution was ordered and that Mr. Fernandez has paid the restitution.¹¹ The unpaid restitution was key to ALJ Farley's justification to uphold the denial of the application in Proceeding No. 23-0473TO.¹²

50. In addition, the instant proceeding is distinguishable from Proceeding 24M-0556TO. Mr. Fernandez does not have a felony conviction; Mr. Fernandez has not been sentenced to prison; Mr. Fernandez has not failed to pay restitution; Mr. Fernandez does not have multiple criminal convictions; Mr. Fernandez has one misdemeanor conviction¹³ that resulted in a sentence of one year of probation¹⁴.

51. While Mr. Fernandez has had encounters with law enforcement, these encounters have not led to cases being filed, let alone felony convictions or incarceration. Under § 24-5-101(2)(b)(I) in evaluating an applicant an agency may not use information that an applicant was arrested or charged but not convicted as a basis for a denial or adverse action. Only the conduct underlying the arrest may be considered.

52. Mr. Fernandez believes that Deputy Neil with the Adams County Sheriff's Office has it out for him¹⁵. The conduct of Deputy Neil is not at issue in this proceeding and the ALJ shall believe unless convincing evidence is presented that Deputy Neil does his job properly. At the same time, it is understandable that being arrested or detained by the same Deputy twice in 15 days in incidents that did not even lead to a case being filed may have angered Mr. Fernandez.

¹¹ See Hr. Tr. July 27, 2025, p. 173: 1.20-24. In Hearing Exhibit 205C it does not appear that restitution was ordered, but at the very least there is no unpaid restitution alleged against Mr. Fernandez.

¹² See Decision No. R24-0432 at ¶ 43 issued in Proceeding No. 24M-0556TO on June 21, 2024. ALJ Farley encouraged the Petitioner to check if restitution is still owed stating "Such evidence may be relevant and important to the Commission's consideration of any future application for a permit."

¹³ The misdemeanor conviction did not occur until after the denial letter was sent. At the time the denial letter was sent, the Petitioner had no criminal convictions.

¹⁴ Hearing Exhibit 205C, p. 3-4.

¹⁵ See Hr. Tr. July 27, 2025, p. 249: 1.17-21.

This does not excuse Mr. Fernandez's behavior, but some frustration on Mr. Fernandez's part is to be expected.

53. In these encounters and during the hearing in this proceeding, Mr. Fernandez has expressed frustration and occasional anger. The purpose of this proceeding is not to determine if the law enforcement encounters were justified or if Mr. Fernandez's actions and behavior in those encounters was fully compliant. While Mr. Fernandez may not have always been fully compliant, his actions did not lead to an arrest or charges being filed. It is not against the law to become angry nor should anger that is not taken to a criminal level alone be the basis to deny an application.

54. The State Legislature has stated that "an applicant for a license, certification, permit, or registration as a condition of issuing the license, certification, permit, or registration, or is required to evaluate the impact of an applicant's criminal record, and the applicant has, at some time, been convicted of a felony or other offense, the state or local agency shall give consideration to pertinent circumstances connected with the conviction in determining whether the applicant is qualified. The intent of this section is to expand employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society." § 24-5-101(1)(a). The State Legislature wants to expand employment opportunities for citizens if they have a criminal conviction. To make a finding that it is in the public interest to deny a permit based upon having a temper that does not lead to violence, criminal charges or a conviction would run contrary to the intent of the legislature.

55. If it was a "close call" in Proceeding No. 23M-0473TO to deny the application, it is an easy call in the instant case to determine that the facts do not justify denial of the application under the standard of public interest alone.

B. Willfully and Repeatedly Failed to Comply Standard

56. As stated above, the examination performed by ALJ Farley in Proceeding No. 23M-0473TO was based upon a finding that the granting of the application was not in the public interest. But with the addition of the amendment in August of 2024, there is now a rebuttable presumption that **willful and repeated failures** (*emphasis added*) to comply with article 10.1 or part 18 or 21 of article 4 of title 42 makes possession of a towing permit not in the public interest. Title 40, Article 10.1 concerns Motor Carrier statutes used by the Commission for regulation. Title 42, Article 4, Part 18 concerns Vehicles Abandoned on Public Property and Part 21 concerns Vehicles abandoned on Private Property.

57. There was no evidence presented that Mr. Fernandez has violated any statutes or rules of the Commission. There was no evidence presented that Mr. Fernandez or his former towing business (Fernandez Towing) had ever been issued a CPAN.

58. Staff presented evidence that Mr. Fernandez's wife has been issued one CPAN and that Mr. Fernandez may have been the tow truck driver in the incident that led to the issuance of the CPAN.¹⁶

59. Even if this CPAN was the responsibility of Mr. Fernandez, one CPAN does not lead to a conclusion of willful and repeated failures to follow rules and regulations. In fact, the decision in that CPAN proceeding concluded that Ms. Fernandez had no previous violations:

While there was testimony of other investigations there was no evidence presented that these investigations have led to the issuance of a CPAN.¹⁷

60. Staff additionally cites times when a tow entity owned by Mr. Fernandez, Ms. Fernandez and a neighbor of the Fernández's had a tow permit revoked due to the failure to

¹⁶ Hearing Exhibit 204.

¹⁷ *Id.* at ¶ 123.

maintain the proper level of insurance. Staff argues that these are incidents of willful and repeated violations of Commission rules and regulations¹⁸.

61. Again, even if these instances that are not under Mr. Fernandez's name were somehow attributable to him, it does not matter. Under § 40-10.1-112(4)¹⁹ "revoked for cause" does not include a revocation for failure to carry the required insurance unless it is shown that the person knowingly operated without insurance. There has been no showing that Mr. Fernandez knowingly operated a tow business without insurance.

62. There is no evidence that Mr. Fernandez has willfully and repeatedly violated article 10.1 or part 18 or 21 of article 4 of title 42. Therefore, this is not a basis to deny his application due to the additional language added to § 40-10.1-401(2)(b) C.R.S.

VI. CONCLUSION

63. Mr. Fernandez has met his burden of proving that Staff's denial of the Application is not supported by fact or law and should be reversed.

VII. ORDER

It is Ordered That:

1. The Petition of Juan Fernandez to Reverse an Initial Towing Permit Denial Pursuant to 40-10.1-401(2)(B), C.R.S., filed on December 20, 2024, is granted for the reasons stated above.
2. Proceeding No. 24M-0556TO is closed.
3. This 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.

¹⁸ Hr. Tr. July 27, 2025, p. 251: 1.1-18.

¹⁹ This statute provides that an applicant for a tow permit that has been revoked for cause more than twice shall not be eligible for another permit.

4. As provided by § 40-6-109, 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 decision is stayed by the Commission upon its own motion within 20 days after service, 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 basic findings 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.

5. 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

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director

