

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 07G-329CP
Civil Penalty Assessment Notice No. 84642

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STIPULATION AND SETTLEMENT AGREEMENT

COLORADO PUBLIC UTILITIES COMMISSION,

Complainant,

v.

COLORADO CAB COMPANY, LLC,

Respondent.



Staff of the Public Utilities Commission (Staff) and Respondent Colorado Cab Company, LLC (Respondent) (collectively Parties) enter into this Stipulation and Settlement Agreement (Agreement) in the above-referenced docket as a complete and final resolution of all issues.

Background

I. In September 2007, the Commission issued Respondent Civil Penalty Assessment Notice No. 84642 (the CPAN) seeking civil penalties of \$12,375.00 (or \$6,187.50 if paid within 10 days) that arose out of a safety and compliance review by Staff of the Commission. The CPAN alleged Respondent violated 4 CCR 723-6-6102 (fraudulent or intentionally false entry on a record required to be kept) which is Count 1 of the CPAN; 4 CCR 723-6-6102 (failure to produce a record of duty status) which are Counts 2-13 of the CPAN; and 4 CCR 723-6-6102 (failure to maintain records of inspection, repairs and maintenance of vehicles) which are Counts 14-34 of the CPAN.

2. On September 26, 2007, the undersigned counsel for Staff entered her appearance on behalf of Staff. On October 19, 2007, the undersigned counsel for Respondent entered his appearance on behalf of Respondent.

3. The Commission set hearing in this matter on November 1, 2007, at 9:00 a.m. The hearing was vacated on the joint motion of the parties by Decision No. R07-0902-1 mailed October 25, 2007.

4. The Agreement herein has been reached in the spirit of compromise and in light of the uncertainties of trial. The Agreement has also been reached to avoid the costly expense of litigation. The Parties note that the Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter. Lastly, the Parties acknowledge that this Agreement will not have precedential effect on any other Commission matters. *See Colorado Ute Elec. Ass'n, Inc. v. PUC*, 602 P.2d 861, 865 (Colo. 1979); *B & M Serv., Inc. v. PUC*, 429 P.2d 293, 296 (Colo. 1967).

5. The Parties submit the public interest is served by assessing Respondent the full civil penalty of \$9,875.00 for Counts 2-34, with \$2,875.00 held in abeyance under the terms herein. Both parties recognize and agree that the alleged violations arose as part of a safety and compliance review conducted by the Commission, and not due to a complaint by a third party. Although Respondent disagrees with the sampling method used by Staff to allege these violations, Respondent accepts Staff's results for this case only. Furthermore, the Respondent immediately took and continues to take corrective action and will submit a report to the Staff as provided in this Agreement below. Staff is satisfied that these terms are sufficient to motivate Respondent to comply with the Public Utilities Law and the Commission's Rules in the future,

while recognizing that the Respondent will be able to continue in business as the Respondent is one of the larger taxicab business in the Denver metro area

6. The Parties further agree to dismissal of Count 1. Staff acknowledges that Count 1 was alleged as a violation on the basis of discrepancies between certain entries on driver trip sheets. No further investigation was made to determine whether the discrepancies were mistakes, inadvertent or otherwise unintentional. Respondent strongly disagrees that the discrepancies were intentional or fraudulent. Staff believes that dismissal is appropriate under these specific facts and circumstances in this docket only.

Settlement Agreement

7. Staff and Respondent hereby stipulate and agree as follows:
- a. Count 1 in the CPAN shall be dismissed.
 - b. Respondent admits liability for Counts 2-34 in the CPAN.
 - c. Respondent agrees to pay \$7,000.00 to the Colorado Public Utilities Commission within ten days of a final decision of the Commission in this case.
 - d. Within 30 days after the final decision in this case, Respondent will submit a corrective action report with respect to Counts 2-34 of the CPAN to Staff, with an explanation and justification of the sampling method Respondent believes is more accurate for purposes of evaluating whether record keeping violations of Commission rules have occurred.
 - e. Within 120 days after receipt of Respondent's corrective action report, Staff will conduct a follow up inspection with respect to Counts 2-34, which shall include a good faith consultation with Respondent regarding the sampling method used by Respondent in its belief that it more accurately evaluates compliance with the record keeping requirements of the Commission.
 - f. If the results as determined by Staff, after Staff's follow up inspection demonstrate that Respondent's records are in compliance with respect to the regulations cited in Counts 2-34 of the CPAN, with a compliance standard of no more than a 10% error rate, then the \$2,875.00 penalty held in abeyance shall not be due conclusively. If Staff finds the error rate is greater than 10%

in the follow up inspection, then Respondent shall pay the \$2,875 balance of the civil penalty within 10 days after receipt of Staff's follow up inspection report.

8. In the event this Agreement is modified or not approved in its entirety, either Staff or Respondent, at that party's option, may withdraw from this Agreement by filing a notice with the Commission in this docket within seven (7) days of entry of such Order. In that event, this docket shall be set for hearing.

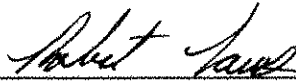
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EXECUTED this 12th day of December 2007.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

Approved as to form:

JOHN W. SUTHERS, ATTORNEY GENERAL

By: 
Robert Laws
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Senior Criminal Investigator
Colorado Public Utilities Commission

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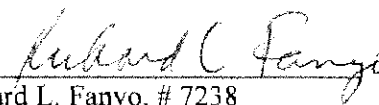
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Respondent

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Counsel for Respondent

EXECUTED this 12th day of December 2007.

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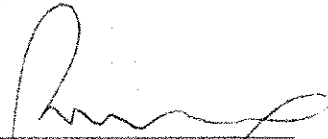
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Counsel for Respondent

EXECUTED this __12th__ day of December 2007.

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