

Settlement Agreement
Exhibit 1 – Motion to Approve Settlement
Docket 09G-656CP
Page 1 of 3

Stipulation and Settlement Agreement

This Stipulation and Settlement Agreement is entered into by and between Trial Staff of the Commission (“Staff”) and We Care Medical Transportation, LLC, (“Respondent”) as a result of Docket NO. 09G-656CP in which the Respondent was cited in a civil penalty assessment notice for violation of the Transportation Rules of the Colorado Public Utilities Commission (“Commission”), and in particular Rule 4 CCR 723-6-6102(a).

1. The Respondent admits liability to Violation No. 4, only, in CPAN No. 93277, which is attached as Exhibit A.
2. This Agreement has been reached in consideration of Respondent’s admission of liability in subparagraph 1, above, in the spirit of compromise and in light of the uncertainties of trial, and to avoid the costly expense of litigation. The Parties also agree that this Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to a full hearing on this matter, as well as in consideration of the amount of monies that would have been spent by either party on attorney’s fees and costs. For these reasons and for the reasons further described in paragraph 5 below, the Parties have agreed to a reduction in the amount of the civil penalty from \$4,840.00 to \$600.00, which reduced amount includes the 10% surcharge imposed pursuant to § 24-34-108, C.R.S.
3. The Respondent has agreed to make one full payment of the negotiated settlement amount of \$600.00 within ten (10) days of the Commission final order and recognize that failure to do so will result in being liable for the full penalty amount associated with Violation No. 4, only, of \$1,210.00 without any further hearing. Respondents agree and stipulate that failure to pay the settlement amount within ten (10) days of the Commission final order shall also be deemed as a waiver by Respondent of any and all rights to file exceptions and/or to all rights to file a request for rehearing, reargument and reconsideration or any other form of appeal. This result will mean that no payment plan is needed. Nor will any additional administrative or adjudicatory time and expense be incurred by the Commission, Staff and/or the Respondent.

4. As an additional condition of this negotiated settlement, Staff agrees to amend the report issued August 31, 2009, by removing the statements set forth as "Citation 1" on page 1 of 4.
5. In addition to the reasons expressed in paragraph 1, 2, 3, and 4 above, Staff and Respondents have agreed to the following stipulation of facts to be considered by the ALJ for consideration of approval of this agreement pursuant to Commission Rule 1302 (b):
 - a. The violation admitted to by the Respondent occurred during a scheduled safety and compliance review by Staff of the Commission. This safety and compliance review was conducted by Commission Criminal Investigator Ted Barrett on August 31, 2009, at the offices of Respondent as part of his regular duties as a criminal investigator for the Colorado Public Utilities Commission when he inspected the Respondent's records. Both parties agree that Commission Rule 6102(a) applies. This Rule incorporates by reference Section 391 of 49 C.F.R. Part 40. Section 391.45(b)(1) requires that any driver who has not been medically certified to operate a commercial vehicle during the preceding 24 months must be medically examined and certified in accordance with Section 391.43.
 - b. Respondent operates as a common carrier pursuant to Commission Authority Number 55696. Respondent has admitted to Violation No. 4 identified in CPAN 93277 in that Respondent's driver Antonio Reyes operated a commercial vehicle on July 31, 2009, without possessing a current and valid medical certification.
 - c. Staff and Respondent agree that Violations No. 1 through No. 3 listed on CPAN 93277 are not factually substantiated and are withdrawn.
 - d. Both Parties stipulate that the Respondents have, as of the date of this agreement, corrected the violation noted above in that driver Reyes is now medically certified.
 - e. Respondent has committed to institute new office policies to more closely and accurately monitor the status of its drivers' medical certification. Respondent has hired new administrative personnel to maintain and review driver records.
 - f. The Parties also stipulate to the fact that the Respondent operates as a modest business enterprise and that a large civil penalty would represent a severe hardship. Respondents have admitted to the substantiated violation cited in the CPAN and corrected the lack of medical certification for driver Reyes. Therefore the Parties agree that mitigation of the maximum fine is appropriate.

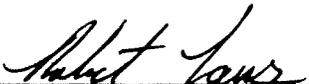
6. The Parties agree that all matters that were raised or could have been raised in this docket relating to the issues specifically identified and addressed herein have been resolved by the Stipulation and Agreement. This Stipulation and Agreement may be executed in counterparts, each of which when taken together shall constitute the entire Agreement of the Parties, and no further modification of this Agreement is allowed, except in writing by the parties, and further agreed to in an further order issued by the Public Utilities Commission.

EXECUTED this ____ day of October, 2009.

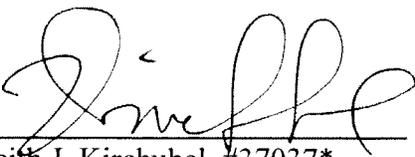
STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

Approved as to form:

JOHN W. SUTHERS, ATTORNEY GENERAL

By: 
Robert Laws
1560 Broadway, Suite 250
Denver, Colorado 80202

Senior Criminal Investigator
Colorado Public Utilities Commission

By: 
Keith J. Kirchubel, #37037*
Assistant Attorney General
Business and Licensing Section
1525 Sherman Street, 5th Floor
Denver, Colorado 80203
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Facsimile: (303) 866-5395

**COUNSEL FOR STAFF OF THE
PUBLIC UTILITIES COMMISSION**

*Counsel of Record

WE CARE MEDICAL TRANSPORTATION, LLC

By: 

Alan Lanctot, President
1642 S. Parker Road, Suite 301
Denver, CO 80231-2917
Telephone: (303) 751-2566

CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR

Exhibit 1
Decision No. R09-1209
DOCKET NO. 09G-656CP
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09G-656CP

No. 93277 -CPAN

Public Utilities Commission of the State of Colorado (Complainant)
v.
We Care Medical Transportation LLC (Respondent)

PUC Authority Number(s): 55696
Physical Address: 1642 S. Parker Road, Suite 301, Denver, CO 80231
Mailing Address: 1642 S. Parker Road, Suite 301, Denver, CO 80231

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty	Penalty + 10% Surcharge	Penalty if Paid Within 10 Days	10 Day Penalty + 10% Surcharge
1	July 5, 2009	4 CCR 723-6-6102(a); Part 391.45(b)(1)	Medical Card Expired	Denver, CO	\$1,100.00	\$1,210.00	\$550.00	\$605.00
2	July 25, 2009	4 CCR 723-6-6102(a); Part 391.45(b)(1)	Medical Card Expired	Denver, CO	\$1,100.00	\$1,210.00	\$550.00	\$605.00
3	July 31, 2009	4 CCR 723-6-6102(a); Part 391.45(b)(1)	Medical Card Expired	Denver, CO	\$1,100.00	\$1,210.00	\$550.00	\$605.00
4	July 31, 2009	4 CCR 723-6-6102(a); Part 391.45(b)(1)	Medical Card Expired	Denver, CO	\$1,100.00	\$1,210.00	\$550.00	\$605.00

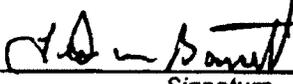
Total Amount: \$4,840.00

Total Amount if Paid Within 10 Days: \$2,420.00

I HEREBY ACKNOWLEDGE RECEIPT OF THIS NOTICE

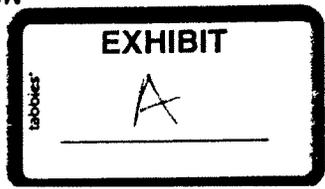
Respondents Signature _____ *Date*

The undersigned has probable cause to believe that the Respondent committed the violation(s) cited.

Ted M. Barrett  September 2, 2009

Print Name *Signature* *Date*

THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION



**CIVIL PENALTY ASSESSMENT NOTICE
OR NOTICE OF COMPLAINT TO APPEAR**

Exhibit 1
Decision No. R09-1209
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No. 93277 -CPAN

(For Commission use only - completed upon affecting service). The undersigned affirms that a copy of this Civil Penalty Assessment Notice or Notice of Complaint to Appear was duly served upon the Respondent by:

() personal service; or (x) certified mail, return receipt requested.

TEP M. BARRETT
Print Name

Ted M. Barrett
Signature

SEPTEMBER 3, 2009
Date

THIS IS A LEGAL DOCUMENT – PLEASE READ ALL ENCLOSED INFORMATION

CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR

Exhibit 1
Decision No. R09-1209
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Page 6 of 6

No. 93277 -CPAN

The notice you have received is called a Civil Penalty Assessment Notice or Notice of Complaint to Appear. The penalty for the alleged violation(s) is described on the preceding page(s). It is the prescribed penalty for the stated violation(s) as required by law and specified in the Public Utilities Commission's rules, and may be an enhanced penalty pursuant to § 40-7-113(3) or (4), C.R.S. Pursuant to § 24-34-108, C.R.S., a surcharge in the amount of ten percent will be added to all penalty assessments collected. This surcharge will be used to fund the development, implementation and maintenance of a consumer outreach and education program. Your payment may be made by money order or check. Do not mail cash. If payment is made by mail, the date of payment is the postmarked date. You may pay this penalty by mail or in person at:

Public Utilities Commission, 1560 Broadway, Suite 250, Denver, CO 80202

You have four options regarding this civil penalty:

1. Within ten days of receipt of this Civil Penalty Assessment Notice, you may pay the reduced total amount shown in the "Total Amount If Paid Within 10 Days" section above, which the Public Utilities Commission will accept as payment in full, with surcharge, and as your acknowledgement that you are liable for the violations herein.

UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATIONS HEREIN.

Respondents Signature

2. Within ten days of receipt of this Civil Penalty Assessment Notice, you may pay the reduced total amount on certain violations, but contest the remaining violations, by providing the following:

UPON PAYMENT, I ACKNOWLEDGE LIABILITY ON THE FOLLOWING VIOLATION NUMBERS:

I AM REQUESTING A HEARING ON THE FOLLOWING CONTESTED VIOLATION NUMBERS:

Enclose payment of the reduced amount(s) shown in the "10 Day Penalty + 10% Surcharge" column for each acknowledged violation. The Public Utilities Commission will accept your payment as payment in full, with surcharge, and as your acknowledgement that you are liable for the violations for which payment is made.

Respondents Signature

3. After ten days of receipt of this Civil Penalty Assessment Notice, you may avoid a hearing in this matter, at any time prior to the hearing, if you pay the full total amount shown in the "Total Amount" section. The Public Utilities Commission will accept your payment as payment in full, with surcharge, and as your acknowledgement that you are liable for the violations herein.

UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATIONS HEREIN.

Respondents Signature

4. If you wish to contest the entire civil penalty, or if the civil penalty assessment is not paid within ten days of receipt of this notice, then you must contact the Public Utilities Commission by 4:00 p.m. of the 15th day after receipt of this notice to set the alleged violation(s) for hearing. Call the P.U.C. at 800/888-0170, ext. 2884, or 303/894-2884. If you fail to contact the Commission, this document becomes a Complaint to Appear Notice and the Commission will set the hearing date without any preference to your wishes. You will be notified about the hearing date. If you are under 18 years of age, you must be accompanied by a parent or a guardian at the hearing.

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