

Decision No. R23-0032-I

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.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING MOTION TO WITHDRAW AND ADVISING
RESPONDENT AS TO ITS REPRESENTATION**

Mailed Date: January 12, 2023

I. STATEMENT AND SUMMARY

A. Statement and Summary

1. This Decision grants the Motion to Withdraw filed by Style Car Service LLC's (Style Car) counsel on December 15, 2022. This Decision also advises Respondent that since it 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 (as set forth below).

II. PROCEDURAL HISTORY¹

2. Trial Staff of the Colorado Public Utilities Commission (Staff) initiated this matter on June 8, 2022 by filing Civil Penalty Assessment Notice No. 129862 (CPAN) against Respondent Style Car alleging 30 counts of alleged violations of Commission rules or relevant statutes.²

3. On December 12, 2022, the ALJ held a duly noticed remote evidentiary hearing on the merits of the CPAN in this Proceeding.³ All parties appeared. During the hearing, numerous confidential and nonconfidential exhibits were admitted into evidence. Style Car failed to present a confidential and unredacted version of Hearing Exhibit 201, instead only offering a public version of that exhibit (which was admitted into evidence). Likewise, Style Car failed to provide a public and redacted version of Hearing Exhibit 207C, instead only offering a confidential version of that exhibit (which was admitted into evidence). To ensure compliance with the Commission's confidentiality rules,⁴ the ALJ directed Style Car to submit a confidential version of Hearing Exhibit 201, to be identified and admitted as Hearing Exhibit 201C (unredacted), and a public version of Hearing Exhibit 207C, to be identified and admitted as Hearing Exhibit 207 (redacted). The ALJ offered opportunities for Style Car to provide these exhibits during the hearing, but ultimately, Style Car asked, and Staff agreed, that Style Car would submit the exhibits shortly after the hearing (on or about December 13, 2022). The parties agreed this approach was reasonable and that since the confidential and non-confidential versions of the exhibits were already admitted, that the to-be-filed exhibits would also be admitted into

¹ Only the procedural history necessary to understand this Decision is included.

² As discussed in this Decision, those counts are referred to by the count number shown in the CPAN.

³ See Decision Nos. R22-0526-I (mailed September 7, 2022) and R22-0779-I (mailed December 5, 2022).

⁴ Rule 1101(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

evidence. The ALJ approved this with the expectation that Style Car would file the exhibits without delay.

4. During the hearing, the ALJ also established January 9, 2023 as the deadline to file Statements of Position (SOPs).

5. 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 promises to file the two exhibits discussed above.

6. On January 3, 2023, Staff filed an Unopposed Motion For Enlargement of Time seeking to extend the January 9, 2023 deadline to file SOPs to January 30, 2023.

7. 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.⁵ In addition, because Style Car had still not filed either of the above-referenced exhibits, 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 cannot be submitted.⁶ The ALJ specifically ordered Style Car to mark the two exhibits exactly as directed in the Decision, as Hearing Exhibit 201C and Hearing Exhibit 207.⁷ 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.⁸

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

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

8. On January 9, 2023, Style Car filed “Hearing Exhibit 201 – Confidential,” marked as such, and “Hearing Exhibit 207 – Public” also marked as such. Neither of the exhibits were marked as directed, despite the Decision’s explicit and repeated emphasis that the exhibits should be marked exactly as directed (as Hearing Exhibit 201C and Hearing Exhibit 207).⁹

9. To date, Style Car has not filed an objection to counsel’s withdrawal.

III. RELEVANT LAW, FINDINGS, ANALYSIS AND CONCLUSIONS

10. An attorney of record in a proceeding who wishes to withdraw must file a notice of withdrawal that includes a list of all pending hearing and procedural dates, which shall be served on the party represented.¹⁰ The notice must also inform the represented party of their right to object to the attorney’s withdrawal.¹¹ Objections to an attorney’s withdrawal must be filed within ten days of the date the notice is filed.¹²

11. The Motion to Withdraw states that the law firm representing Style Car was terminated as counsel for Style Car in this Proceeding.¹³ It also states that the Motion was served on Style Car as set forth in the Certificate of Service, and that Style Car would be advised of its right to object to counsel’s withdrawal.¹⁴

⁹ Decision No. R23-0004-I at 3-5.

¹⁰ Rule 1201(d) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1,

¹¹ *Id.*

¹² *Id.*

¹³ Motion to Withdraw at 1.

¹⁴ *Id.*

In addition, the Motion also advises that the only procedural deadline remaining is the January 9, 2023 deadline to file a SOP.¹⁵

12. Based on the foregoing, the ALJ finds that the Motion to Withdraw complies with Rule 1201(d), 4 CCR 723-1. In addition, since the two missing exhibits have been filed, albeit incorrectly marked,¹⁶ the ALJ has no more concerns about counsel's withdrawal. Finally, the ALJ notes that although the Motion to Withdraw was filed and served on Style Car on December 15, 2022, Style Car has not filed an objection to counsel's withdrawal. And the deadline for SOPs has been extended to February 6, 2023, giving Style Car ample time to make the filing. For all these reasons, the ALJ grants the Motion to Withdraw and finds that doing so does not prejudice any party.

13. Style Car is reminded that the new deadline to file Statements of Position is February 6, 2023.

14. In addition, Style car is advised that generally, parties appearing before the Commission must be represented by an attorney authorized to practice law in Colorado.¹⁷ However, an individual may appear without an attorney on behalf of a company after establishing it is eligible to do so.¹⁸ To be represented by a non-attorney, all the below conditions must be met:

- The company must not have more than three owners;
- The amount in controversy must not exceed \$15,000; and

¹⁵ *Id.*

¹⁶ In the future, *counsel must do better with marking exhibits*. If counsel has questions or does not understand directions to mark exhibits, counsel should reach out to Commission staff rather than repeatedly incorrectly marking exhibits, which requires later corrections and sometimes results in a confusing record.

¹⁷ Rule 1201(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

¹⁸ § 13-1-127, C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

- The non-attorney individual seeking to represent the company must provide the Commission with satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.¹⁹

15. It is presumed that a corporation's officers, a partnership's partners, a limited partnership's members, and persons authorized to manage a limited liability company have authority to represent the company in the proceeding.²⁰ A written resolution from a company specifically authorizing the individual to represent the company's interests in the proceeding may also be relied upon as evidence of the individual's authority to represent the company.²¹

16. Should Style Car wish to be represented by a non-attorney in this Proceeding moving forward, Style Car must submit a filing establishing that it meets the above requirements. Otherwise, Style Car must be represented by counsel in this Proceeding.

IV. **ORDER**

A. **It Is Ordered That:**

1. The Motion to Withdraw as counsel for Style Car Services LLC filed by Keyes and Fox, LLP on December 15, 2022 is granted.

2. Should Style Car wish to be represented by a non-attorney in this Proceeding moving forward, Style Car must submit a filing establishing that it meets the requirements discussed in ¶¶ 14 and 15 above. Otherwise, Style Car must be represented by counsel in this Proceeding.

¹⁹ § 13-1-127(2) and (2.3)(c), C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

²⁰ § 13-1-127(2) and (2.3)(c), C.R.S.

²¹ § 13-1-127(3). C.R.S.

3. This Decision is effective immediately.

(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, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director