Decision No. R24-0432

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23M-0473TO

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

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE CONOR F. FARLEY DENYING PETITION AND CLOSING PROCEEDING

Mailed Date: June 20, 2024

I. STATEMENT

A. Background

1. On August 22, 2023, Ryder Towing & Recovery (Ryder) filed an application for a towing permit (Application).

2. On August 28, 2023, the Commission denied the Application pursuant to § 40-10.1-401(2)(b), C.R.S.

3. On September 25, 2023, Ryder Towing & Recovery filed the Petition described in the caption above (Petition).

4. On October 11, 2023, the Commission referred the proceeding by minute entry to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

5. On October 26, 2023, Trial Staff of the Commission filed a Notice of Intervention by Right (Staff).

6. On December 15, 2023, the ALJ issued Decision No. R23-0842-I requiring the parties to confer about a schedule for the proceeding and for Staff to file a report of the conferral.

7. On December 22, 2023, Staff filed the Conferral Report requesting (among other things) that the ALJ schedule the evidentiary hearing in this proceeding for February 13, 2023, and establishing February 6, 2024 and February 27, 2024 as the deadlines to file and serve exhibits; witness and exhibit lists; and Statements of Position (SOPs).. The parties also requested that the hearing be conducted as a remote hearing.

8. On January 11, 2024, the ALJ issued Decision No. R24-0017-I that scheduled a remote evidentiary hearing for February 13, 2024 at 9:00 a.m. and established a schedule for the prehearing filing and service of exhibits and witness and exhibit lists.

9. On February 12, 2024, Garth Anson filed a "Verification of Authorized Representative" stating that Thomas Henry "is authorized to act on behalf of the partnership in the hearing set for February 13, 2024" (Verification). Mr. Henry is identified in the Verification as "a business and management consultant to Ryder Towing and Recovery and has assisted the partnership in evaluating and processing the original application and appeal of the denial of Petitioners application."

10. The hearing took place as scheduled on February 13, 2024. At the outset of the hearing, Staff questioned the permissible role of Thomas Henry, who was Ryder's "designated representative" at the hearing. During the hearing, exhibits 100, and 200-206 and 201C and 202C were admitted into evidence. At the conclusion of the hearing, the ALJ established a deadline of March 5, 2024 for the parties to file their SOPs.

11. Both parties filed SOPs on March 5, 2024.

B. Findings of Fact

1. 1995 Conviction and Court-Ordered Restitution

12. Garth Anson is a partner in Ryder Towing & Recovery. In 1995, when he was 19, Mr. Anson drove a vehicle that crashed into a second vehicle parked on the side of the road with a flat tire. Two occupants of the second vehicle were changing the tire when the crash occurred. One of those occupants died as a result of her injuries sustained in the crash. The second occupant of the second car, who was the sister of the decedent, was injured in the crash.[1]

13. Mr. Anson was charged with multiple felonies for his conduct that led to the crash. Mr. Anson ultimately entered into an agreement to plead 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 to which Mr. Anson pled guilty were felonies.[2]

14. The criminal court sentenced Mr. Anson to nine years in prison as a result of his plea agreement. He served six years and was released from prison in 2001. Mr. Anson was then on parole for four years, until approximately 2005.[3]

15. The court also ordered Mr. Anson to pay $50,000 in restitution to the surviving occupant of the second vehicle. The court that ordered payment of the restitution found that the victim was entitled to $186,338.72 in restitution. However, the court decreased the amount of restitution to $50,000 based on Mr. Anson's inability to pay the full amount given his age, earning potential, and duty of support to his child and other financial responsibilities.[4] With

[1] Transcript of Feb. 13, 2024 Hearing at 100:20-104:11.
[2] Hearing Exhibit 202.
[3] Transcript of Feb. 13, 2024 Hearing at 98:10-100:1
[4] Hearing Exhibit 203.

court and other costs added on, the total restitution amount to be paid by Mr. Anson was $53,265.56.[5]

16. As of the date of the hearing, Mr. Anson had paid $2,965.08 of the restitution. Mr. Anson paid this amount while he was in prison and on parole.[6] While he was incarcerated, the State of Colorado withheld a certain percentage of any money he earned or was gifted by friends and family, which was then provided as restitution to the victim. Mr. Anson testified that, while on parole, he gave a money order to his parole officer at most, if not all, of his meetings with his parole officer who then provided the amounts paid by money order to the victim.[7] The sum of the amounts paid during his incarceration and parole period is $2,965.08.

17. Mr. Anson further testified that when his parole terminated he asked his parole officer whom he should contact to determine how to continue paying restitution going forward. The parole officer told Mr. Anson to contact the Jefferson County Collections office and/or the Colorado Restitution Office. According to Mr. Anson, he subsequently attempted to contact both offices every month for an unspecified period. He reports that during those calls, he left his name and phone number, and requested information concerning the balance owed on the restitution judgment, the identity of the person or entity to whom he must make out his checks, and where to send the checks. Mr. Anson testified that he never received a call back from either office with the requested information.[8]

18. In addition, Mr. Anson testified that no state entity has contacted him regarding the restitution. Nor has he received any inquiry regarding his financial ability to pay the

[5] Hearing Exhibit 202, 204.
[6] Hearing Exhibit 204.
[7] Transcript of Feb. 13, 2024 Hearing at 62:18-63:13, 109:12-110:14.
[8] *Id*. at 63:14-64:14.

restitution.[9] In addition, he has not attempted to speak with the victim about restitution, even though she contacted him via Facebook Messenger at one point.[10]

19. Finally, Mr. Anson testified about a court proceeding involving Farmers Insurance that resulted in payment by Farmers to the victim to whom Mr. Anson owes restitution. Mr. Anson further testified that restitution cannot be paid twice, thereby suggesting that because Farmers had paid the victim as a result of the court proceeding, his restitution obligation had been mitigated or eliminated.[11] Mr. Anson also stated that he called Farmers Insurance to obtain information regarding the court case and the payment, but did not receive a substantive response. Mr. Anson did not, however, produce any documentary evidence or specifics of the alleged proceeding involving Farmers Insurance and/or that Farmers Insurance has paid a claim to the victim beneficiary of the restitution judgment. For the foregoing reasons, Mr. Anson has not made any restitution payments since his parole terminated and he continues to owe $50,330.48 in restitution.[12]

20. Staff contends that Mr. Anson has not made a "serious effort or [shown a genuine] willingness to comply with his legal obligation" to pay the restitution.[13] As support, Staff argues that there were other reasonable steps that Mr. Anson could have taken to determine how to pay the restitution, such as "calling a different number, sending a letter or email, making a records request, conducting an online search, or visiting the government entities in person."[14] Staff also notes that "Mr. Anson could have simply looked at the court orders from his 1995 criminal proceeding to determine how to pay the restitution, as they stated, '[r]estitution is to be

[9] Transcript of Feb. 13, 2024 Hearing at 76:21-77:20.
[10] *Id*. at 64:25-66:7.
[11] *Id*. at 66:8-69:4.
[12] Transcript of Feb. 13, 2024 Hearing at 64:15-69:22; Hearing Exhibit 204.
[13] Staff's SOP at 11.
[14] *Id*. at 13.

paid in cash, money order or certified check to the Clerk of the Court with the case number clearly indicated.'"[15] Finally, Staff notes that Ryder has not provided any documentary evidence or specifics of the alleged proceeding involving Farmers Insurance and/or that Farmers Insurance has paid a claim to the victim beneficiary of the restitution judgment. Nor has Ryder provided any evidence that the amount owed in restitution should be offset by the insurance proceeds or the order should be terminated.[16]

21. Based on the foregoing, the ALJ finds that Mr. Anson has not taken all reasonable actions to pay the restitution ordered by the Jefferson County Court resulting from his 1995 convictions or to be released from the obligation. While the uncontradicted record reflects that Mr. Anson has taken some actions to determine the status of the restitution judgment and/or to comply with it, Staff has established that there are several other reasonable actions that Mr. Anson could have taken to satisfy the judgment or to obtain evidence that Jefferson County no longer expects Mr. Anson to comply with the judgment. The ALJ finds that the restitution judgment has not been satisfied or terminated and that Mr. Anson continues to owe $50,330.48 almost 28 years after the Jefferson County Court entered the order.

2. Mr. Anson's Other Encounters with Colorado's Court System

22. Mr. Anson's 1995 conviction resulting from the crash is not his only experience with the Colorado judicial system. Hearing Exhibit 201 lists other cases brought against Mr. Anson. Of particular note, Mr. Anson was convicted of: (a) criminal mischief in 2001 for removing his ankle monitoring bracelet while on parole after serving his sentence resulting from the 1995 conviction; and (b) an assault charge in 2004 that he testified occurred during a

[15] *Id*. (citing Hearing Exhibit 203 at 4-7).
[16] *Id*. at 12-13.

domestic dispute. Mr. Anson testified that he served four months for the 2001 criminal mischief charge resulting from the revocation of his parole, but otherwise has not served additional time. In addition, two permanent restraining orders have been entered against Mr. Anson. A Jefferson County court entered the first in 2004 in favor of Mr. Anson's then-wife. An Adams County court entered the second in 2019 in favor of Mr. Anson's wife's ex-husband. Finally, a misdemeanor charge of criminal mischief was filed against Mr. Anson in 2008 in Jefferson County and a petition for a protection order was filed against Mr. Anson in Douglas County in 2012, but Mr. Anson testified that he had no recollection of either. The summary of Mr. Anson's court records does not indicate the resolution of the criminal mischief misdemeanor charge, and indicates that a permanent restraining order was not entered against Mr. Anson as a result of the 2012 petition.[17]

3. Application for Towing Permit

23. Ryder is a business seeking to operate as a towing carrier in Colorado with a principal place of business in Rifle, Colorado. Ryder is a limited partnership.[18] In the Application, Garth Anson and Shaun Healy are listed as the sole partners that own Ryder.[19] However, at the hearing, Messrs. Anson and Henry, who Mr. Anson designated as the "authorized representative" of Ryder, stated that Mr. Henry is a general partner in Ryder.[20] Ryder has never held a permit to operate as a towing carrier in Colorado.[21]

24. Investigator Lloyd Swint first reviewed the Application. He obtained and reviewed Mr. Anson's criminal records. Based on the seriousness of Mr. Anson's 1995

[17] Hearing Exhibit 201.
[18] Transcript of Feb. 13, 2024 Hearing at 28:23-29:3.
[19] Hearing Exhibit 200.
[20] Transcript of Feb. 13, 2024 Hearing at 31:11-15.
[21] *Id*. at 134:24-135:3.

vehicle-related convictions, his failure to comply with his restitution obligations, and the fact that the 1995 fatality and convictions therefor involved the use of a vehicle, Mr. Swint recommended to Section Chief Nathan Riley that the Application be denied.[22] At the hearing, Investigator Swint stated that his recommendation was a close call, but that the totality of the circumstances supported his recommendation.[23]

25. Section Chief Riley then reviewed the Application and materials obtained by Investigator Swint. Section Chief Riley ultimately agreed with Investigator Swint. As a result, he wrote the August 28, 2023 letter denying the Application. In his denial letter, Section Chief Riley cited Mr. Anson's 1995 convictions, 1996 order of restitution, and Mr. Anson's failure to satisfy the order of restitution, and then stated:

> Due to the wanton and willful disregard of your legal duties and responsibilities, as well as the gravity of the associated convictions, Staff has determined that there is good cause to believe the issuance of the requested towing permit is not in the public interest, unless or until you have addressed the aforementioned issue(s).[24]

Section Chief Riley testified at the hearing that Staff is not "standing on" Mr. Anson's other cases before Colorado courts since 1995 as justification for its decision to deny the Application.[25] However, those post-1995 cases served as "background information" for Section Chief Riley's decision.[26]

4. Mr. Henry's Role at the Hearing

26. As noted, on February 12, 2024, Mr. Anson filed the Verification stating that Mr. Henry "is authorized to act on behalf of the partnership in the hearing set for February 13,

[22] *Id*. at 140:17-141:9.
[23] *Id*. at 160:23-161:18.
[24] Hearing Exhibit 205.
[25] Transcript of Feb. 13, 2024 Hearing at 175:16-22.
[26] *Id*.

2024." Mr. Henry is identified in the Verification as "a business and management consultant to Ryder Towing and Recovery and has assisted the partnership in evaluating and processing the original application and appeal of the denial of Petitioners application." At the hearing, Mr. Henry stated that he was general partner of Ryder.[27]

27. Mr. Henry also stated that he formerly practiced as an attorney, but he is currently on disability inactive status.[28] He stated that he would not act as an attorney at the hearing.[29] Instead, he wished to participate as a general partner of Ryder and authorized representative of Ryder and Mr. Anson to protect his own financial and business interests.[30] If not allowed to participate in the hearing as the authorized representative of Ryder, Mr. Henry stated that Ryder would call Mr. Henry as a witness to testify about legal advice he provided to Mr. Anson when Mr. Henry practiced as an attorney (*i.e.*, before the onset of his disability). At the hearing, Mr. Henry presented argument on behalf of Ryder, conducted the direct examination of Mr. Anson, and cross-examined Staff's witnesses.

28. At the hearing, Staff questioned whether Mr. Henry could participate in the hearing as the representative of Ryder. As support, Staff noted Mr. Henry's disability inactive status as an attorney and cited C.R.C.P. 243.4(b) and *Denver Bar Ass'n v. PUC*, 391 P.2s 467 (Colo. 1964). Staff did not propose any limitations on Mr. Henry's participation in the hearing. Instead, Staff sought "clarification" of Mr. Henry's role.[31]

[27] *Id*. at 31:11-15.
[28] *Id*. at 3:16-4:7.
[29] *Id*. at 18:1-9, 22:18-21.
[30] *Id*. at 29:4-31:4.
[31] *Id*. at 25:13-26:11.

C. Conclusions of Law

1. Analytical Approach

29. In rendering this Decision, the ALJ has carefully reviewed and considered all the evidence even if this Decision does not specifically address all of the evidence presented, or every nuance of each party's position on each issue.

2. Burden of Proof

30. Except as otherwise provided by statute, the Administrative Procedure Act imposes the burden of proof in administrative adjudicatory proceedings upon "the proponent of an order."[32] In addition, Rule 6504(d)(II) states that the applicant for a permit that has been denied shall bear the burden of proof in any subsequent petition proceeding seeking to overturn the Commission's decision.[33] Accordingly, as the applicant and petitioner in this proceeding, Ryder bears the burden of proving by a preponderance of the evidence that the Commission's decision "is not supported by fact or law."[34] The evidence must be "substantial evidence," which is defined as "such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion ... it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury."[35] A party has satisfied its burden under this standard when the evidence, on the whole, tips in favor of that party.

[32] § 24-4-105(7), C.R.S.
[33] Rule 6504(d)(II) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.
[34] *Id*. *See also* Section 24-4-105(7), C.R.S.; § 13-25-127(1), C.R.S.; Rule 1500 of the Rules of Practice and Procedure, 4 CCR 723-1.
[35] *City of Boulder v. PUC*, 996 P.2d 1270, 1278 (Colo. 2000) (quoting *CF&I Steel, L.P. v. PUC*, 949 P.2d 577, 585 (Colo. 1997)).

3. Applicable Law

a. Commission Rule 1201(a), C.R.C.P. 243.4(b), and *Denver Bar Ass'n v. PUC*

31. Commission Rule 1201(a) requires a party in a proceeding before the Commission to be represented by an attorney authorized to practice law in the State of Colorado.[36] However, an individual who is not an attorney may represent a company if three conditions are met: (a) the company does not have more than three owners; (b) the amount in controversy does not exceed $15,000; and (c) the non-attorney individual seeking to represent the company provides satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.[37] There is a presumption that a corporation's officers, a partnership's general partners, a limited partnership's members, and persons authorized to manage a limited liability company have authority to represent the company in a proceeding.[38]

32. C.R.C.P. 243.4(b) states in relevant part that "[w]hile a lawyer is on disability inactive status, the lawyer must not practice law." C.R.C.P. 243.4(b) does not define what constitutes the "practice of law." Instead, the Colorado Supreme Court purported to do so in *Denver Bar Ass'n v. PUC*, 391 P.2d 467 (Colo. 1964).

33. There, the Commission implemented Rule of Practice and Procedure 7(b) that allowed non-attorneys to act in a representative capacity before the Commission. The Denver and the Colorado Bar Associations, and an attorney, for himself and others, challenged the authority of the Commission to adopt Rule 7(b).[39] The issue before the Colorado Supreme Court, therefore, was whether the Commission's adoption of Rule 7(b) usurped "the exclusive power

[36] 4 *Code of Colorado Regulations* (CCR) 723 of the Commission's Rules of Practice and Procedure.
[37] Rule 1201(b)(II), 4 CCR 723; § 13-1-127(2) and (2.3)(c), C.R.S.
[38] § 13-1-127(2) and (2.3)(c), C.R.S.
[39] 391 P.2d at 469.

[of the Colorado Supreme Court] to define and regulate the practice of law."[40] The Supreme Court held that the Commission exceeded its authority in adopting Rule 7(b) that allowed a non-attorney "under all circumstances . . . [to] act in a representative capacity before the Commission."[41]

34. That holding conclusively addressed the issue before the Colorado Supreme Court. Nevertheless, the Court went on to provide guidance about what constitutes the "practice of law," which is arguably *dicta*. At the outset, the Colorado Supreme Court stated that:

> Whether one, in representing another before the Commission under Rule 7 (b), is practicing law depends upon the circumstances of the particular case there under consideration. The character of the act done, rather than that it is performed before the Commission, is the factor which is decisive of whether it constitutes the practice of law.[42]

The Colorado Supreme Court then identified a series of actions that constitute the practice of law, including "appear[ing] for another . . . in adversary or public proceedings involving the latter's rights," and "on behalf of another, examin[ing] and cross-examin[ing] witnesses and mak[ing] objections or resist[ing] objections to the introduction of testimony, the exercise of which requires legal training, knowledge, and skill."[43] The Colorado Supreme Court concluded: "Of course, it has been held time and again that a natural person may appear in his own behalf and represent himself, notwithstanding he may not be a lawyer."[44]

b. § 40-10.1-401(2)(b), C.R.S.

35. Section 40-10.1-401(2)(b) states that "[t]he commission may deny an application or refuse to renew a permit of a towing carrier . . . based on a determination that there is good

[40] *Id*. at 470.
[41] *Id*. at 471.
[42] *Id*.
[43] *Id*. at 471-72.
[44] *Id*. at 472.

cause to believe the issuance of or renewal of the permit is not in the public interest. The determination is subject to appeal in accordance with commission rules." As noted, if the applicant files a petition to appeal the Commission's decision, Rule 6504(d)(II) of the Commission's Transportation Rules specifies that the applicant/petitioner must establish "that disqualification is not supported by fact or law."

36. "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."[45] Similarly, Merriam Webster defines "public interest" as "the general welfare and rights of the public that are to be recognized, protected, and advanced."[46] The Commission has the discretion to determine what constitutes the "public interest" based on the context in which the term is applied.[47]

4. Analysis

a. Mr. Henry's Participation in the Hearing

37. At the hearing, the ALJ held that Mr. Henry could appear in a representative capacity on behalf of Ryder. The evidence at the hearing established that Ryder does not have more than three owners, Mr. Henry is a general partner in Ryder, and the amount in controversy is less than $15,000. Accordingly, under Commission Rule 1201(a) and § 13-1-127, C.R.S., Mr. Henry is permitted to act in a representative capacity for Ryder.

[45] Staff's SOP at 8 (citing Black's Law Dictionary (11th ed. 2019)).
[46] https://www.merriam-webster.com/ (last accessed May 24, 2024).
[47] *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.").

38. That Mr. Henry is a formerly licensed attorney who is currently on disability inactive status did not preclude his representative participation in the hearing on behalf of Ryder. The evidence established that Mr. Henry is one of the owners of Ryder and he stated that he would represent his financial interest that is implicated by the denial of the Application.[48] There is no case or statutory law prohibiting Mr. Henry from representing his interest in the proceeding because he is on disability inactive status as an attorney. For this reason, the Colorado Supreme Court's *dicta* holding in *Denver Bar Ass'n v. PUC* did not prohibit or limit Mr. Henry's participation in the hearing.[49] The guidance provided by the Colorado Supreme Court in that decision for when a non-lawyer impermissibly engages in the practice of law applies when the non-lawyer takes action on behalf of "another."[50] Because Mr. Henry represented his own personal financial interest in Ryder at the hearing, the ALJ concludes that his participation was permissible and did not run afoul of the Colorado Supreme Court's decision in *Denver Bar Ass'n v. PUC* or C.R.C.P. 243.4(b). The fact that the interests of Messrs. Anson and Henry in this proceeding are consistent supports this decision.

a. Denial of Application

39. The ALJ concludes that Ryder has not carried its burden of establishing that Staff's denial of the Application and thus disqualification of Ryder as a towing carrier is not supported by fact and law. The purpose of restitution is not solely to compensate victims. It is also a "mechanism for rehabilitation of offenders" and "a deterrent to future criminality."[51] Restitution also "aid[s] the offender in reintegration as a productive member of society."[52]

[48] Transcript of Feb. 13, 2024 Hearing at 29:4-31:4.
[49] 391 P.2d at 471-72.
[50] *Id*.
[51] § 18-1.3-601(1)(c) and (d) (formerly § 16-18.5-101(1)(c) and (d), C.R.S. (repealed 2002)).
[52] § 18-1.3-601(2), C.R.S. (formerly § 16-18.5-101(1)(e), C.R.S. (repealed 2002)).

For these reasons and others, the General Assembly has declared that "[a]n effective criminal justice system requires timely restitution to victims of crime and to members of the immediate families of such victims in order to lessen the financial burdens inflicted upon them, to compensate them for their suffering and hardship, and to preserve the individual dignity of victims."[53] Based on the foregoing, the ALJ finds and concludes that 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.

40. Here, as found above, the restitution judgment is still in effect and Mr. Anson continues to owe $50,330.48 almost 28 years after the Jefferson County Court entered the order. The record reflects that Mr. Anson has attempted to determine how much he owes in restitution since he was released from prison, how to pay any remaining restitution, and where to send payments. However, as found above, Staff has established that there are multiple reasonable additional actions that Mr. Anson could have taken to determine how and where to pay the restitution and/or to request the Jefferson County Court to either terminate Mr. Anson's restitution obligation or to offset any insurance proceeds that the victim/beneficiary of the restitution judgment received resulting from her damages caused by Mr. Anson. As a result, the record reflects that Mr. Anson has not made a restitution payment since the early 2000s and thus had made little headway in satisfying the restitution judgment.

41. In his testimony, Mr. Anson suggested that the State of Colorado may no longer expect him to satisfy the restitution judgment. For example, Mr. Anson testified that the State has not contacted him about his remaining obligations under the restitution judgment and has not

[53] § 18-1.3-601(1)(e), C.R.S. (formerly § 16-18.5-101(2), C.R.S. (repealed 2002)).

sought to garnish any of his bank accounts or wages.[54] Mr. Anson also presented incomplete hearsay testimony that the victim beneficiary of the restitution judgment received an insurance payout for her losses resulting from Mr. Anson's actions. However, Colorado law establishes that, with limited exceptions that Mr. Anson has not established apply, orders of restitution remain in force until the restitution is paid in full.[55]

42. Finally, it is important to note that the Jefferson County Court found that the victim "would be entitled to $186,338.72 if [Mr. Anson] carried sufficient insurance to pay her damages."[56] However, the Court reduced the restitution judgment to $50,000 because it found that Mr. Anson did not have "any reasonable prospect of paying a judgment in excess of $50,000 over any reasonable span of years."[57] As a result, the Court carefully considered Mr. Anson's future prospects in reducing the amount of restitution by over 70 percent to give Mr. Anson a reasonable chance of satisfying the restitution judgment within a reasonable time period and to support himself and his family. The fact that Mr. Anson has made little progress in satisfying the restitution judgment after the Court showed such mercy on Mr. Anson is disappointing.

43. Based on the foregoing, the ALJ concludes that Ryder has not satisfied its burden of proving that Staff's denial of the Application is not supported by fact or law. The ALJ urges Mr. Anson to pursue the actions identified by Staff to determine whether the restitution judgment is still in effect and, if so, to start paying any remaining restitution that is due and owing. If Mr. Anson believes that Jefferson County no longer expects him to pay restitution, or that the amount owed is less than identified at the hearing, he should seek clarity from Jefferson County on those

[54] Transcript of Feb. 13, 2024 Hearing at 76:21-77:2.
[55] § 18-1.3-603(4)(a), C.R.S. (formerly § 16-18.5-103(4)(a), C.R.S. (repealed 2002) and § 16-11-101.5(1), C.R.S. (repealed 2002)).
[56] Hearing Exhibit 203 at 2.
[57] *Id*.

questions and/or relief from the restitution judgment.[58] Such evidence may be relevant and important to the Commission's consideration of any future application for a permit that Ryder may file.

II. ORDER

A. The Commission Orders That:

1. The Petition of Ryder Towing & Recovery to Reverse an Initial Towing Permit Denial Pursuant to 40-10.1-401(2)(B), C.R.S., and Rule 6504(D) filed on September 25, 2023 is denied for the reasons stated above.

2. Proceeding No. 23M-0473TO 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.

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.

[58] *See* § 18-1.3-603(3)(b), C.R.S. (formerly § 16-18.5-103(3)(b), C.R.S. (repealed 2002)) ("Any order for restitution may be: . . . . (b) Decreased: (I) With the consent of the prosecuting attorney and the victim or victims to whom the restitution is owed; or (II) If the defendant has otherwise compensated the victim or victims for the pecuniary losses suffered.").

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

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director