

Decision No. R25-0241

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0084TO , 24G-0314TO, 24G-0439TO, 24G-0440TO AND 24G-0441TO

PROCEEDING NO. 24G-0084TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SERGIO CORNEJO DOING BUSINESS AS MNS TOWING LLC,

RESPONDENT.

PROCEEDING NO. 24G-0314TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SERGIO CORNEJO DOING BUSINESS AS MNS TOWING LLC,

RESPONDENT.

PROCEEDING NO. 24G-0439TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SERGIO CORNEJO DOING BUSINESS AS MNS TOWING LLC,

RESPONDENT.

PROCEEDING NO. 24G-0440TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SERGIO CORNEJO DOING BUSINESS AS MNS TOWING LLC,

RESPONDENT.

PROCEEDING NO. 24G-0441TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SERGIO CORNEJO DOING BUSINESS AS MNS TOWING LLC,

RESPONDENT.

**RECOMMENDED DECISION APPROVING SETTLEMENT
AGREEMENT, VACATING HEARING, AND CLOSING
PROCEEDING**

Issued Date: April 2, 2025

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I. STATEMENT**A. Background**

1. On February 20, 2024, the Colorado Public Utilities Commission (“Commission”) filed Civil Penalty Assessment or Notice of Complaint to Appear (“CPAN”) No. 139039 against Sergio Cornejo doing business as MNS Towing LLC (“Sergio Conejo”) alleging 24 violations of § 40-10.1-401(1)(a), C.R.S. on January 20, 22, 23, 24, and 25, 2024; and 23 violations of Commission Rule 6007(e)(II) on February 13, 2024. CPAN No. 139039 states that the civil penalty assessed for the alleged violations is \$59,455, but that if MNS Towing pays the civil penalty within ten calendar days of its receipt of the CPAN, the civil penalty will be reduced to \$29,727.50. Finally, CPAN No. 139039 states that, if the Commission does not receive payment within ten days, the CPAN will convert into a Notice of Complaint to Appear and a hearing will be scheduled at which the Commission Staff will seek the “Total Amount” of \$59,455.¹ CPAN No. 139039 also states that the Commission may order MNS Towing to cease and desist from violating statutes and Commission rules.²

2. On July 20, 2024, the Commission filed CPAN No. 138328 against MNS Towing LLC (“MNS Towing”) alleging four violations of Commission rules and one violation of § 40-10.1-405(3)(b)(I), C.R.S., and penalties of \$3,478.75 or \$1,739.38 if paid within ten days.

3. On October 12, 2024, the Commission filed against Sergio Cornejo:
(a) CPAN No. 138903 alleging four violations of Commission rules and one violation of § 40-10.1-405(1)(c)(I), and penalties of \$2,846.25 or \$1,423.13 if paid within ten days;
(b) CPAN No. 138978 alleging two violations of Commission rules and one violation of § 40-10.1-405(2)(a)(I), C.R.S., and penalties of \$1,897.50 or \$948.75 if paid within ten days; and

¹ CPAN Nos. 135021 and 135131 at 3.

² *Id.*

(c) CPAN No. 139090 alleging four violations of Commission rules and one violation § 40-10.1-405(3)(b)(I), C.R.S., and penalties of \$4,743.75 or \$2,371.88 if paid within ten days.

4. The Commission alleges that it served the CPANs by U.S. certified mail.

5. CPAN Nos. 139039, 138328, 138903, 138978, and 139090 were assigned Proceeding Nos. 24G-0084TO, 24G-0314TO, 24G-0439TO, 24G-0440TO, and 24G-0441TO, respectively. The undersigned Administrative Law Judge (“ALJ”) has been assigned to all of the foregoing proceedings. Trial Staff of the Commission (“Staff”) has entered its appearance in all of the proceedings.

6. Decision Nos. R24-0611-I and R24-0780-I scheduled hybrid hearings in Proceeding Nos. 24G-0084TO and 24G-0314TO on January 8-9, 2025 and February 5, 2025, respectively.³

7. On November 25, 2024, the ALJ issued Decision Nos. R24-0859-I, R24-0860, R24-0861, R24-0862, and R24-0863 in Proceeding Nos. 24G-0084TO, 24G-0314TO, 24G-0439TO, 24G-0440TO, and 24G-0441TO, respectively, setting a joint remote prehearing conference for December 12, 2024 at 1:30 p.m. to discuss whether consolidation of the five proceedings pursuant to Commission Rule 1402 is appropriate, and how to schedule these proceedings, either individually or in a consolidated proceeding.

8. On December 12, 2024, the joint remote prehearing conference took place.

9. On December 13, 2024, Staff filed an Unopposed Motion to Amend CPAN and Waive Response Time in Proceeding No. 24G-0314TO (“Unopposed Motion to Amend CPAN”) in which it requested to change the name of the Respondent in that proceeding to Sergio Cornejo

³ Decision Nos. R24-0611-I and R24-0780-I issued on August 29, 2024 and October 28, 2024, respectively.

doing business as MNS Towing LLC to align with the named defendant in Proceeding Nos. 24G-0084TO, 24G-0439TO, 24G-0440TO, and 24G-0441TO.

10. On December 23, 2024, the ALJ issued Decision Nos. R24-0931-I in Proceeding No. 24G-0314TO that granted the Unopposed Motion to Amend and R24-0930-I that consolidated Proceeding Nos. 24G-0084TO, 24G-0314TO, 24G-0439TO, 24G-0440TO, and 24G-0441TO, designated Proceeding No. 24G-0084TO the primary proceeding, vacated the prehearing schedules and hybrid hearings in the proceedings, and scheduled a remote prehearing conference for January 8, 2025.

11. At the January 8, 2025 joint remote prehearing conference, the parties proposed the following schedule:

<u>Event</u>	<u>Deadline</u>
Deadline to Issue Discovery	March 5, 2025
Deadline for Settlement and Prehearing Motions	March 12, 2025
Deadline to File and Disclose Witness and Exhibit Lists and File Exhibits	March 25, 2025
Remote Hearing	April 8-10, 2025
Statements of Position	April 22, 2024

The ALJ accepted the proposed schedule and informed the parties that an interim decision would issue memorializing the decision.

12. On February 6, 2025, the ALJ issued Decision No. R25-0075-I that formally accepted and established the schedule proposed by the parties.

13. On March 26, 2025, the parties filed a Joint Motion for Approval of Comprehensive Settlement Agreement, Modification of the Procedural Schedule, and Waiver of

Response Time (“Joint Motion”). Attachment A to the Joint Motion is the Settlement Agreement.

B. Joint Motion and Settlement Agreement

14. The Joint Motion and Settlement Agreement state that Staff and Respondent have agreed upon a settlement that resolves all issues in the proceeding. According to Staff and Respondent, the Settlement Agreement promotes administrative efficiency by avoiding the expenditure of the time and expense necessary to hear this matter.⁴ They also state that the Settlement Agreement is in the public interest because it “hold[s] a towing carrier accountable for not complying with Colorado law and Commission rules regulating the towing industry, while recognizing several mitigating factors.”⁵

15. According to the terms of the Settlement Agreement, Respondent agrees to:

- a. admit liability for the violations alleged in CPAN Nos. 139039, 138328, 138903, 138978, and 139090;
- b. pay \$10,000 in civil penalties, which includes the 15 percent surcharge required by § 24-34-108, C.R.S.
- c. issue refunds of \$5,700.12 for fees collected in connection with the improper tows. Refund checks that cannot be delivered or are not cashed within 90 days after a final decision must be reported and remitted to the Colorado Department of the Treasury as unclaimed property;
- d. report and remit all proceeds from the sale of any vehicles remaining in his possession to the Colorado Department of the Treasury as unclaimed property no later than 120 days after the Commission’s order approving this Agreement becomes a final decision of the Commission;
- e. not, for a period of 10 years from the final decision, work in the towing industry in any capacity for a towing carrier who is required to obtain a permit from the Commission to operate.⁶

Finally, Respondent agrees that, if it fails to comply with the terms of this Settlement Agreement, it will be held liable for the full penalty amount of \$72,421.25, which shall be due immediately.

⁴ Joint Motion at p. 6 (¶ 12).

⁵ Joint Motion at p. 6 (¶ 14); Settlement Agreement at p. 7 (¶ 16).

⁶ Settlement Agreement at pp. 4-6 (¶¶ 6-13).

16. In return, Staff agrees to reduce the penalty amount to \$10,000, which includes the 15 percent surcharge required by § 24-34-108, C.R.S. Factors that influenced Staff's decision to agree to the reduced penalty is that Respondent admits liability, voluntarily dissolved MNS Towing LLC on November 28, 2024, no longer works in the towing industry, and agrees to stay out of the towing industry for ten years.⁷

17. Additionally, Respondent agrees that:

If Respondent fails to comply with terms of this Agreement, Respondent shall be liable for the maximum penalty amount of \$72,421.25, which shall be due immediately. This remedy shall be in addition to any other remedy available under Colorado law or Commission rules, including but not limited to disqualification from reapplying for a towing permit.⁸

18. Finally, in the Joint Motion, the parties request that the Commission issue an order approving the Settlement Agreement and waiving response time to the Joint Motion.

II. FINDINGS AND CONCLUSIONS

19. The undersigned ALJ finds good cause to grant the Joint Motion and accept the Settlement Agreement. The ALJ finds that the Settlement Agreement summarized above is fair, just, and in the public interest. The ALJ further finds it in the public interest to conserve valuable resources by adopting the terms of the Settlement Agreement. Accordingly, the Settlement Agreement is approved.

20. Pursuant to the terms of the Settlement Agreement, Respondent will be ordered to pay the \$10,000—either in person at the Commission or by depositing the payment in the United States mail—within 21 business days after the Commission's order approving the Settlement Agreement becomes final. Failure to do so will result in Respondent's liability for the maximum penalty amount of \$72,421.25, which shall be due immediately.

⁷ Joint Motion at pp. 6-7 (¶ 15).

⁸ Settlement Agreement at p. 6 (¶ 14).

21. The requests for a one-day extension to file the Settlement Agreement and to waive response time to the Joint Motion are granted.

22. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. For the reasons stated above, the Joint Motion for Approval of Comprehensive Settlement Agreement, Modification of the Procedural Schedule, and Waiver of Response Time is granted.

2. The Comprehensive Settlement Agreement (Settlement Agreement) is accepted and approved. A copy of the Settlement Agreement, attached hereto as Appendix A, is incorporated herein by reference. The parties shall comply with the terms of the Settlement Agreement.

3. Respondent shall pay the \$10,000 identified in the Settlement Agreement either in person at the Commission or by depositing the payment in the United States mail, within 21 business days after the Commission's order approving the Settlement Agreement becomes final.

4. The remote evidentiary hearing scheduled for April 8-10, 2025 is vacated.

5. Proceeding Nos. 24G-0084TO, 24G-0314TO, 24G-0439TO, 24G-0440TO and 24G-0441TO are closed.

6. 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.

7. As provided by § 40-6-106, 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 recommended decision is stayed by the Commission upon its own motion, 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 a basic finding 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.

8. If exceptions to this Recommended 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)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

A handwritten signature in black ink that reads "Rebecca E. White". The signature is written in a cursive style.

Rebecca E. White,
Director