

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03G-428CP

Civil Penalty Assessment Notice No. 28338-CPAN

**STIPULATION FOR ENTRY OF CEASE AND DESIST ORDER AND SETTLEMENT
OF CIVIL PENALTIES**

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

TONY DASSINGER,

Respondent.

Staff of the Public Utilities Commission ("Staff") and Respondent Tony Dassinger ("Respondent") (collectively the "Parties") enter into this Stipulation For Entry of Cease and Desist Order and Settlement of Civil Penalties ("Stipulation") in the above-referenced docket and request that the Commission issue an order approving its terms as a complete and final resolution of all issues. In support of this Stipulation, Staff and Respondent state as follows:

I. BACKGROUND

1. On September 22, 2003, the Commission issued Respondent Civil Penalty Assessment Notice ("CPAN") No. 28338.

2. CPAN No. 28338 was issued by Staff Investigator Robert Laws, who cited Respondent for the following violations:

- a) operating a motor vehicle carrier on August 29, 2003 without a certificate of public convenience and necessity ("CPCN") in violation of § 40-10-104(1), C.R.S.;

- b) operating a motor vehicle carrier on August 29, 2003 without the required insurance in violation of § 40-10-110, C.R.S.;
- c) operating a motor vehicle carrier on September 22, 2003 without a CPCN in violation of § 40-10-104(1), C.R.S.; and
- d) operating a motor vehicle carrier on September 22, 2003 without the required liability insurance in violation of § 40-10-110, C.R.S.

A copy of CPAN No. 28338 is attached hereto as **Exhibit A**.

3. Commission Rule 40.4, 4 CCR 723-31-40.4, allows for a penalty of up to \$400.00 per violation. Staff sought the maximum penalty in this case for each violation, or \$400.00, for a total of \$1,600.00.

4. The Parties held a settlement conference and for the purpose of resolving all issues in this docket, Staff and Respondent desire to compromise and settle the charges contained in CPAN No. 28338. Accordingly, Staff and Respondent hereby stipulate and agree to the Terms of Settlement set forth below and request that this Stipulation be approved without modification.

II. TERMS OF SETTLEMENT

A. RESPONDENT'S ADMISSIONS AND STIPULATED FINDINGS

- 1. Respondent admits to all violations contained in CPAN No. 28338.
- 2. The Parties stipulate, agree and request that the Commission enter an order that contains the following findings:
 - a) Respondent is found to have operated a motor vehicle carrier on August 29, 2003 without a certificate of public convenience and necessity ("CPCN") in violation of § 40-10-104(1), C.R.S., as alleged in CPAN No. 28338;

- b) Respondent is found to have operated a motor vehicle carrier on August 29, 2003 without the required liability insurance in violation of § 40-10-110, C.R.S., as alleged in CPAN No. 28338;
- c) Respondent is found to have operated a motor vehicle carrier on September 22, 2003 without a certificate of public convenience and necessity ("CPCN") in violation of § 40-10-104(1), C.R.S., as alleged in CPAN No. 28338; and
- d) Respondent is found to have operated a motor vehicle carrier on September 22, 2003 without the required liability insurance in violation of § 40-10-110, C.R.S., as alleged in CPAN No. 28338.

3. The Parties stipulate and agree that the admissions and findings contained herein and in a Commission order approving this Stipulation may be used as admissions against Respondent when relevant to any other proceeding before the Commission or any court of law, subject only to any express limitations or agreements contained in this Stipulation.

B. SETTLEMENT OF CIVIL PENALTIES

1. Based on the above admissions and stipulated findings, the Parties stipulate and agree that Respondent is liable for civil penalties totaling \$1,600.00.

2. In consideration of Respondent's admissions set forth in Section II.A. above, Respondent's agreement to the entry of the Cease and Desist Order described in Section II.D. below (and its associated remedies for future violations), and Respondent's recent cooperation in an ongoing investigation of another carrier offering compensated passenger transport services in violation of the Colorado Public Utilities Law, the Parties have agreed to a "deferred judgement" as set forth in the next paragraph.

3. The Parties therefore request that the Commission approve the following terms and conditions and incorporate them into a Commission Order approving this Stipulation and resolving this docket:

Respondent, Tony Dassinger, is assessed a civil penalty of \$1,600.00. However, Mr. Dassinger shall not be liable for this civil penalty unless he is found to be in violation of the Cease and Desist Order issued in this docket at any time within five years of the effective date of this Order. In the event Mr. Dassinger is found by the Commission to be in violation of such Cease and Desist Order, he will be liable for and will pay the Commission the \$1,600.00 civil penalty no later than the tenth day after the effective date of the Commission Order establishing his liability for such violation. This liability shall be in addition to any other civil or criminal liability that may arise from such violation pursuant to the terms of this Stipulation or otherwise.

C. DEFERRAL OF CRIMINAL CHARGES

1. Respondent acknowledges and fully understands his admissions contained herein could subject him to criminal prosecution under § 40-10-113, C.R.S.

2. In consideration of Respondent's admissions of liability set forth in Section II.A. above, Respondent's agreement to the entry of the Cease and Desist Order described in Section II.D. below (and its associated remedies for future violations), and Respondent's recent cooperation in an ongoing investigation of another carrier offering compensated passenger transport services in violation of the Colorado Public Utilities Law, Staff agrees not to pursue criminal charges against Respondent for the violations admitted to in this docket so long as he is not found to be in violation of the Cease and Desist Order issued in this docket at any time within five years of the effective date of this Order. If he is found to be in violation of such Cease and Desist Order, Staff may refer the violations admitted to herein for criminal prosecution.

D. CEASE AND DESIST ORDER

1. The Parties further request that the Commission approve the following terms and conditions and incorporate them into a Commission Order approving this Stipulation and resolving this docket:

- a) Mr. Dassinger is hereby ordered to cease and desist a) operating a motor vehicle carrier under Title 40, Article 10 unless he is in compliance with the certification requirements of § 40-10-104 and insurance requirements of § 40-10-110 and (b) operating a motor vehicle carrier exempt from regulation as a public utility under Title 40, Article 16 unless he is in compliance with the registration requirements of § 40-16-103 and insurance requirements of § 40-16-104 ("Cease and Desist Order").
- b) This Cease and Desist Order applies to Mr. Dassinger personally and to his involvement in any manner with any carrier offering compensated passenger transport services including, but not limited to, his involvement as an owner, officer, agent, employee, manager, independent contractor or driver of such carrier.
- c) If at any time Staff believes Mr. Dassinger is in violation of this Cease and Desist Order, it may initiate an action before the Commission for a determination of whether a violation has occurred. Such an action will not limit or stay in any manner any separate or simultaneous proceeding(s) (e.g., civil penalty proceedings) that Staff may initiate based on the same factual allegations.
- d) In the event Mr. Dassinger is found by the Commission to be in violation of this Cease and Desist Order at any time within five years of the effective date of this Order, he will be liable for the violations admitted to herein as set forth in Sections II.B.3 and II.C.2. of this Stipulation.
- e) Additionally, in the event Mr. Dassinger is found by the Commission to be in violation of this Cease and Desist Order at any time within five years of the effective date of this Order, he hereby consents and stipulates to the entry by a court of law of a permanent injunction enjoining him from a) operating a motor vehicle carrier under Title 40, Article 10 unless he is in compliance with the certification requirements of § 40-10-104 and insurance requirements of § 40-10-110 and (b) operating a motor vehicle carrier exempt from regulation as a public utility under Title 40, Article 16 unless he is in compliance with the registration requirements of § 40-16-103 and insurance requirements of § 40-16-104. Mr. Dassinger agrees that

upon the effective date of a final Commission Order finding that he violated the Cease and Desist Order, the Commission may file a complaint for injunctive relief in Denver District Court. Mr. Dassinger hereby agrees not to challenge the filing of the complaint or the entry of an order for injunction and the Commission may present this Stipulation as conclusive evidence that Mr. Dassinger has consented to the entry of the injunction as set forth herein.

- f) For purposes of the five year period discussed in subparagraphs d and e of this Section and Sections II.B.3. and II.C.2. of this Stipulation, the operative date is the date of the alleged violation as opposed to the date the action is initiated before the Commission.

III. GENERAL TERMS

1. This Stipulation shall not become effective until the issuance of a final Commission order approving the Stipulation, which order does not contain any modification of the terms and conditions of this Stipulation that is unacceptable to the Parties hereto. In the event the Commission modifies this Stipulation in a manner unacceptable to any Party hereto, that Party shall have the right to withdraw from this Stipulation and proceed to hearing on some or all of the issues that may be appropriately raised by that Party in this docket under a new procedural schedule. The withdrawing Party shall notify the Commission, and the other Parties to this Stipulation, in writing within ten (10) days of the date of the Commission order that the Party is withdrawing from the Stipulation (such notice being referred to as the "Notice"). A Party who properly serves a Notice shall have and be entitled to exercise all rights the Party would have had in the absence of the Party's agreeing to this Stipulation. Hearing shall be scheduled on an expedited basis, as soon as practicable.

2. Approval by the Commission of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable and reasonable resolution of all issues that were or

could have been contested among the Parties in this proceeding, except as otherwise specifically noted in this Stipulation.

3. This Stipulation may be executed in counterparts, all of which when taken together shall constitute the entire agreement between the Parties with respect to the issues addressed by this Stipulation.

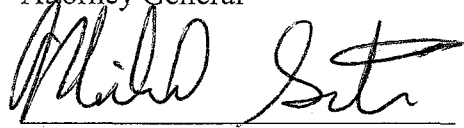
DATED this 26th day of February 2004.

**STAFF OF THE COLORADO PUBLIC
UTILITIES COMMISSION**


By: Robert Laws
Senior Compliance Investigator
Colorado Public Utilities Commission
1580 Logan Street
Denver, CO 80203
(303) 894-2848

APPROVED AS TO FORM:

KEN SALAZAR
Attorney General

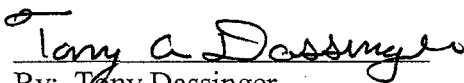


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TONY DASSINGER, RESPONDENT


By: Tony Dassinger
(303) 296-7811
Appearing Pro Se

CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR

NO. 28338-CPAN

03G-428CP

Public Utilities Commission of the State of Colorado v.

~~Tony Dassing~~ Tony Dassing AAA BOOGIE BUS
Respondent's Name

4460 ELIZABETH Denver CO 80216
Address City State Zip Code

NONE
Respondent's PUC Number(s)

No.	Date of Violation	Section, C.R.S. or Rule Number	Nature of Violation	Location of Violation	Penalty Amount
1.	<u>8/29/03</u>	<u>40-10-104(1) CRS</u>	<u>NO CERTIFICATE</u>	<u>Denver</u>	<u>\$ 400.00</u>
2.	<u>8/29/03</u>	<u>40-10-110 CRS</u>	<u>NO INSURANCE</u>	<u>Denver</u>	<u>\$ 400.00</u>
3.	<u>9/22/03</u>	<u>40-10-104(1) CRS</u>	<u>NO CERTIFICATE</u>	<u>Denver</u>	<u>\$ 400.00</u>
4.	<u>9/22/03</u>	<u>40-10-110 CRS</u>	<u>NO INSURANCE</u>	<u>Denver</u>	<u>\$ 400.00</u>
5.					\$
6.					\$
7.					\$
8.					\$
9.					\$
10.					\$

Total Penalty Assessment \$ 1600.00

REMARKS: 14TH + Larimer "Old Chicago Bronco Shuttle"

949-THL "BOOGIE BUS" Tony Dassing
Drivers Lic# 92052-5148 x 3/1/13 Ph# 720-366-5939

I HEREBY ACKNOWLEDGE RECEIPT OF THIS NOTICE. Tony Dassing
Respondent's Signature

UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE
LIABILITY OF ALL VIOLATION(S) CONTAINED HEREIN.

(See instructions on reverse side)

Respondent's Signature

If within ten days of the issuance of this notice the penalty assessment is not paid then you must contact the Public Utilities Commission at 1-800-888-0170, extension 2824, or (303) 894-2824, by 4:00 p.m. on or before OCTOBER 22ND, 2003, to set the alleged violation for a hearing.

THE UNDERSIGNED HAS PROBABLE CAUSE TO BELIEVE THAT THE RESPONDENT COMMITTED THE VIOLATION(S) CITED AND AFFIRMS THAT A COPY OF THIS CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR WAS DULY SERVED UPON THE RESPONDENT.

COMPLAINANT Laws Robert Laws
Print last name Signature of Complainant

INVESTIGATIVE PERSONNEL OF THE COLORADO PUBLIC UTILITIES COMMISSION

DATED THIS 22ND DAY OF September, 2003

Distribution: White-Commission Records Yellow-Respondent Pink-Enforcement MF Gold-A-G

THIS IS A LEGAL DOCUMENT - PLEASE READ BOTH SIDES



THIS IS A LEGAL DOCUMENT -- PLEASE READ BOTH SIDES

This document provides you information about your options upon receipt of this notice. You may either pay this civil penalty by mail or in person. Or you may contest the penalty at a hearing. Please read carefully the following instructions.

CIVIL PENALTY ASSESSMENT NOTICE INSTRUCTIONS

The notice you have received is called a Civil Penalty Assessment Notice. The penalty for the alleged violation(s) is described on the reverse side. It is the prescribed penalty for the stated violation(s) as required by law and specified in the Public Utilities Commission's Rules and Regulations Concerning Civil Penalties for Carriers. You may pay this penalty by mail or in person.

By paying the Civil Penalty Assessment, you acknowledge your liability.

Your payment may be made by money order or check. Do not mail cash. If the payment is mailed, it must be postmarked no later than 10 days from the date of issuance of this notice. This date appears on the third line from the bottom of the reverse side of this notice.

To receive credit for payment, please sign on the reverse side of this notice on the signature line adjacent to statement "UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATION(S) HEREIN." and enclose this signed notice with the payment. The address to mail or pay in person is:

Public Utilities Commission
1580 Logan Street, Office Level Two
Denver, Colorado 80203

COMPLAINT TO APPEAR NOTICE INSTRUCTIONS

If you decide to not pay the penalty and want to contest it, you are required to contact the Public Utilities Commission by 4 p.m. on or before the date and at the telephone number shown on the reverse side. When you call the Commission, be prepared to provide dates when you will be available to attend a hearing on this issue. If you fail to contact the Commission before 4 p.m. on the date shown, the Commission shall 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.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within MOTION TO APPROVE
STIPULATION FOR ENTRY OF CEASE AND DESIST ORDER AND SETTLEMENT
OF CIVIL PENALTIES AND FOR WAIVER OF RESPONSE TIME upon all parties
herein by depositing copies of same in the United States mail, first class postage prepaid, or
as otherwise indicated, at Denver, Colorado, this th ~~26~~ day of February, 2004, addressed as
follows:

Tony Dassinger
5148 Washington Street
Denver, CO 80216

Robert Laws
Public Utilities Commission
1580 Logan Street, OL-2
Denver, CO 80203
BY INTERDEPARTMENTAL MAIL

Ted Barrett
Public Utilities Commission
1580 Logan Street, OL-2
Denver, CO 80203
BY INTERDEPARTMENTAL MAIL

John Opeka
Public Utilities Commission
1580 Logan Street, OL-2
Denver, CO 80203
BY INTERDEPARTMENTAL MAIL

Dino Ioannides
Advisory Staff
Public Utilities Commission
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