

Decision No. R04-0268-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-061EC

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

LAWRENCE TORREZ, D/B/A ABSOLUTELY DEVINE LIMOUSINES,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION FOR
CONTINUANCE AND DENYING
REQUEST TO WAIVE RESPONSE
TIME IN CONNECTION WITH
MOTION TO SUBSTITUTE WITNESS**

Mailed Date: March 16, 2004

I. STATEMENT

1. The captioned proceeding was initiated on February 5, 2004, when the Staff of the Colorado Public Utilities Commission (Staff) issued Civil Penalty Assessment Notice No. 28402 to the Respondent, Lawrence Torrez, doing business as Absolutely Devine Limousines (Torrez).

2. On February 11, 2004, the Commission issued an Order and Notice setting this matter for hearing at the Commission's offices in Denver, Colorado. On March 16, 2004, commencing at 9:00 a.m.

3. The undersigned administrative law judge (ALJ) called the matter for hearing at the assigned time and place. Staff appeared through counsel and Torrez appeared personally.

4. At the commencement of the hearing Torrez stated that it was his understanding that arrangements had been made through a Mr. Jerry Tomatoes to have legal counsel from the law firm of Kurtz & Peckham appear on his behalf at the hearing. Since counsel had failed to appear, a recess was taken to allow Torrez an opportunity to investigate the matter. When the hearing was reconvened Torrez advised that a misunderstanding had apparently occurred between Mr. Tomatoes and Kurtz & Peckham and that no one from that firm was then available to appear at the hearing. Torrez then stated that it was his intention to retain legal counsel and requested that the hearing be continued for that purpose. Torrez' motion for continuance was granted over the objection of Staff.

5. The ALJ then directed Torrez to retain legal counsel and to cause to have such counsel formally enter his/her appearance in this matter on or before March 23, 2004. His failure to do so will result in a presumption that he has elected not to retain counsel, instead, be representing himself on a *pro se* basis. Torrez or his counsel, as the case may be, shall advise the ALJ of their availability for a one-day hearing of this matter to be held prior to April 30, 2004, on or before March 23, 2004.¹

6. On March 1, 2004, Staff filed a Motion for Presentation of Testimony by Telephone and for Partial Waiver of C.R.C.P. Rule 43(i) (Motion). The Motion requested that Ms. Donna Fink, a representative of the American and Foreign Insurance Company (American/Foreign) be allowed to testify via telephone. Response time to the Motion was shortened and it was ultimately granted. See Decision Nos. R04-0214-I and R04-0260-I.

¹ Counsel for Staff shall also advise the ALJ of Staff's availability for a re-scheduled hearing on or before March 23, 2004.

7. On March 12, 2004, Staff filed a Motion to Substitute Witness and for Waiver of Response Time (Motion to Substitute). The Motion to Substitute indicates that Ms. Fink is no longer the American/Foreign representative qualified to testify concerning the matter addressed in the Motion. Therefore, Staff requests that another American/Foreign representative, whose identity will be made known at hearing, be allowed to testify via telephone.

8. Any desired response to the Motion to Substitute shall be filed by Torrez, either on a *pro se* basis or thorough counsel, on or before March 26, 2004. Torrez' failure to do so will be deemed a confession of the Motion to Substitute. The request for waiver of response time submitted in conjunction with the Motion to Substitute will be denied.

II. ORDER

A. It is Ordered That:

1. The motion to continue the hearing of this matter submitted by Lawrence Torrez, doing business as Absolutely Devine Limousines, is granted.

2. Lawrence Torrez, doing business as Absolutely Devine Limousines, shall retain legal counsel and cause to have such counsel formally enter his/her appearance in this matter on or before March 23, 2004. His failure to do so will result in a presumption that he has elected not to retain counsel and will, instead, be representing himself in this matter on a *pro se* basis.

3. All parties shall advise the administrative law judge of their availability for a one-day hearing of this matter to be held prior to April 30, 2004, on or before March 23, 2004.

4. The request for waiver of response time submitted by the Staff of the Colorado Public Utilities Commission in conjunction with its Motion to Substitute Witness is denied. Any desired response to such motion shall be filed on or before March 26, 2004.

5. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge