Decision No. R04-1010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04C-443-INS

IN RE: THE MATTER OF MOTOR VEHICLE COMMON AND CONTRACT CARRIERS LISTED ON APPENDIX A TO THIS DECISION, RESPONDENTS.

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
REVOKING AUTHORITIES PURSUANT
TO ORDER TO SHOW CAUSE

Mailed Date: August 27, 2004

I. STATEMENT

1. The cases listed on the attached Appendix A were instituted by Notice of Hearing and Order to Show Cause issued by the Commission Director and served upon the Respondents on August 10, 2004. The cases were called for hearing on August 23, 2004, at 8:30 a.m., in Commission Hearing Room "B," Office Level 2 (OL2), Logan Tower, 1580 Logan Street, Denver, Colorado, before Administrative Law Judge Mana L. Jennings-Fader.

1. Ms. Jonelle Poley, Program Assistant I, appeared and testified on behalf of Staff of the Commission. None of the Respondents listed on Appendix A appeared at the hearing.

2. Pursuant to § 40-6-109, C.R.S., the Administrative Law Judge transmits to the Commission the record of this proceeding, this recommended decision containing findings of fact and conclusions thereon, and a recommended order.

II. STATEMENT, FINDINGS, AND CONCLUSIONS

3. Pursuant to § 40-10-110, C.R.S., and the rules and regulations of the Commission, every motor vehicle carrier of passengers (common carrier) must keep a currently effective Certificate of Insurance on file with the Commission.

4. Pursuant to § 40-11-109, C.R.S., and the rules and regulations of the Commission, every contract carrier of passengers by motor vehicle must keep a currently effective Certificate of Insurance on file with the Commission.

5. Pursuant to § 40-13-105, C.R.S., and the rules and regulations of the Commission, every towing carrier must keep a currently effective Certificate of Insurance or bond on file with the Commission documenting both cargo liability insurance and garage keepers liability insurance.

6. Pursuant to § 40-16-104, C.R.S., and the rules and regulations of the Commission, every property carrier by motor vehicle and every other motor vehicle carrier exempt from regulation as a public utility must keep a currently effective Certificate of Insurance on file with the Commission.

7. The Commission's records do not show a currently effective Certificate of Insurance for each of the Respondents listed in Appendix A.

8. The Commission's only means of performing the important health and safety function of guaranteeing that persons who hold authority from the Commission have current, effective insurance is to have documentation of that fact furnished in uniform format to the Commission. The responsibility for furnishing that information is on the holder of the authority.

9. The Respondents listed on Appendix A failed to appear for the hearing as ordered by the Commission and have not shown good cause for that failure.

10. Sections 40-10-112, 40-11-110, and 40-13-109, C.R.S., and the Commission's rules and regulations implementing those sections, provide that an authority issued by the Commission may be suspended, revoked, altered, or amended if it is established to the satisfaction of the Commission that the holder of that authority has violated any applicable statute, or any rule, regulation, or order of the Commission. Section 40-16-103, C.R.S., requires the Commission to revoke the Article 16 registration of any person who fails to comply with the insurance requirements of the article.

11. Because the Respondents listed in Appendix A have failed to keep a currently effective Certificate of Insurance on file with the Commission, the authorities listed in Appendix A should be revoked.

III. ORDER

A. The Commission Orders That:

1. The Respondents' operating authorities listed in Appendix A are revoked as of the effective date of this Order.

2. Ordering paragraph no. 1 shall be void and the case dismissed as to any Respondent who files the required Certificate of Insurance before the effective date of this Order.

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, 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.

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.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Administrative Law Judge

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