

Decision No. R04-1544-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 04G-458EC

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COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

MONUMENT LIMOUSINE SERVICE, L.L.C.,

RESPONDENT.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
ACCEPTING FILING AS TIMELY AND  
FINDING THAT OFFICER MAY  
REPRESENT RESPONDENT**

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Mailed Date: December 27, 2004

**I. STATEMENT**

1. On September 3, 2004, Staff of the Commission (Staff) served on Monument Limousine Service, L.L.C. (Respondent), Civil Penalty Assessment Notice No. 71173 (CPAN) which alleges 29 violations of Rule 4 *Code of Colorado Regulations* (CCR) 723-15-2.1 by Respondent. That CPAN commenced this proceeding.

2. On September 14, 2004, Respondent acknowledged its liability with respect to seven of the alleged violations by paying a civil penalty of \$700. Respondent's failure to acknowledge liability for, and to pay a civil penalty with respect to, the remaining 22 alleged violations put those allegations at issue.

3. On September 24, 2004, the Commission issued its Order Setting Hearing and Notice of Hearing. That Order established a hearing date of December 14, 2004. By Decision No. R04-1421-I the Administrative Law Judge (ALJ) vacated the hearing date.

4. Staff and Respondent are the only two parties in this proceeding. Staff is represented by counsel. *See* Entry of Appearance and Notice Pursuant to Rule 9(d), dated October 5, 2004 and mailed to Respondent on that date.

5. By Decision No. R04-1421-I the ALJ ordered Respondent to file, on or before December 17, 2004, either a verified statement establishing that Respondent meets the criteria to be represented by an individual other than an attorney licensed in Colorado or a statement that Respondent would be represented by counsel in this proceeding.

6. On December 17, 2004, the Commission received a submission from Respondent sent in response to Decision No. R04-1421-I. Because it did not comply with the *Rules of Practice and Procedure*, 4 CCR 723-1, the submission was returned to Respondent.

7. On December 22, 2004, the Commission received from Respondent a filing, made in response to Decision No. R04-1421-I, which complied with the requirements of the *Rules of Practice and Procedure*, 4 CCR 723-1. Because Respondent made a good faith effort to comply with Decision No. R04-1421-I and because the content of the filing was the same as the submission on December 17, 2004, the ALJ will accept the December 22, 2004 filing as being made timely in accordance with the provisions of Decision No. R04-1421-I.

8. Rule 4 CCR 723-1-21(a) requires a party in a proceeding before the Commission to be represented by counsel unless: (a) the person is “an individual who is a party to [the] proceeding and who wishes to appear *pro se* [to represent] only his individual interest”

(Rule 4 CCR 723-1-21(b)(1)); or (b) the person appears “on behalf of a closely held corporation, [but] only as provided in § 13-1-127, C.R.S.” (Rule 4 CCR 723-1-21(b)(2)).

9. Respondent in this case is a limited liability company and, thus, does not meet the requirements of Rule 4 CCR 723-1-21(b)(1).

10. To be able to appear through an individual other than a licensed attorney, therefore, Respondent must meet the requirements of Rule 4 CCR 723-1-21(b)(2). The ALJ finds that Respondent meets those requirements. First, Respondent meets the definition of a closely-held entity as established in § 13-1-127(1)(a), C.R.S. Second, the amount in controversy in this matter is less than \$10,000 because the maximum civil penalty which the Commission may impose in this case is \$4,400. Third, Mr. Malone, the President and an officer<sup>1</sup> of Respondent, provided evidence of his authority to represent Respondent in this proceeding. Specifically, Mr. Malone submitted both a copy of the Board of Directors authorization for him to represent Respondent in this matter and his verified Declaration attesting to his authority to represent Respondent in this case. Fourth and finally, having established that he is an officer of Respondent, Mr. Malone falls within the statutorily-created presumption that he has the authority to appear on behalf of Respondent. Section 13-1-127(2.3), C.R.S.

11. Mr. Alex Malone will be permitted to represent Respondent in this proceeding.

12. Mr. Malone is advised to obtain a copy of the Rules of Practice and Procedure, 4 CCR 723-1, as he will be required to comply with those rules.<sup>2</sup> See Decision No. R04-1421-I at note 5 (to same effect).

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<sup>1</sup> Section 13-1-127(a)(i), C.R.S., defines “officer” as “a person generally or specifically authorized by an entity to take any action contemplated by” § 13-1-127, C.R.S.

<sup>2</sup> The Rules are available on the Commission’s website ([www.dora.state.co.us/puc](http://www.dora.state.co.us/puc)) or in hard copy from the Commission.

II. **ORDER**

A. **It Is Ordered That:**

1. Mr. Alex Malone, President of Monument Limousine Service, L.L.C., shall be permitted to represent Monument Limousine Service, L.L.C., in this proceeding.
2. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge