

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 12G-318EC
Civil Penalty Assessment Notice No. 103438

STIPULATION AND SETTLEMENT AGREEMENT

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

MOHAMED SHERIFF dba #1 AFFORDABLE CAR SERVICE,

Respondent.

Staff of the Public Utilities Commission (Staff) and Mohamed Sheriff, doing business as #1 Affordable Car Service (Respondent) (collectively Parties) enter into this Stipulation and Settlement Agreement (Agreement) in the above-referenced Docket as a complete and final resolution of all issues. Respondent acknowledges and agrees that he chose to proceed *pro se* and represent himself in this matter as provided for in 4 CCR 723-1-1201(b).

Background

On March 26, 2012, the Commission issued Respondent Civil Penalty Assessment Notice No. 103438 (the CPAN) seeking civil penalties of \$4950 (or \$2475 if paid within 10 days). The CPAN alleges Respondent failed to require drivers to prepare a record of duty status, as required by 4 CCR 723-6-6102(a)(I) and 49 CFR 395.8(a), on nine separate occasions.

Settlement Agreement

Staff and Respondent hereby stipulate and agree as follows:

1. Respondent admits liability to all nine violations in the CPAN.
2. The Agreement herein has been reached in the spirit of compromise and in light of the uncertainties of trial. The Agreement has also been reached to avoid the costly expense of litigation. The Parties note that the Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter. For these reasons and the reasons set forth below, the Parties submit the public interest is served by assessing Respondent a reduced civil penalty of \$500 under the terms herein. In reducing the penalty, the Parties considered the following mitigating factors pursuant to Commission Rule 1302(b):
 - a. Respondent acknowledges wrongdoing and immediately took corrective action.
 - b. Respondent admits the maximum level of culpability for all the violations in the CPAN.
 - c. This is the first time Respondent was issued a CPAN for these violations and the first time Respondent has been issued a CPAN for any violations since he began business in 2001.
 - d. Respondent fully cooperated with Staff in resolution of this matter. Respondent initiated contact with Staff prior to hearing to begin discussions on settlement and corrective actions that it needed to take to be in compliance with the Public Utilities Laws and Commission Rules.
 - e. Assessing Respondent a civil penalty of \$500 under the terms herein is sufficient to motivate Respondent to remain compliant with the Public Utilities Laws and Commission Rules on a going-forward basis.
 - f. Assessing a civil penalty amount greater than \$500 could create a financial hardship on Respondent.
3. In consideration of Respondent's admission of liability in paragraph 1, and for the reasons expressed in paragraph 2, Staff agrees conditionally reducing the amount of the civil

penalty from \$4950 to \$500, which amount includes a 10% surcharge pursuant to C.R.S. § 24-34-108, is appropriate and in the public interest.

4. Respondent agrees to make one full \$500 payment of the negotiated settlement amount no later than ten (10) days after the Commission's approval of this Agreement becomes final. For purposes of this Agreement, a final Commission decision shall mean the date when the Recommended Decision of the administrative law judge approving or modifying this Agreement becomes a decision of the Commission.

5. Respondent agrees that failure to pay the settlement amount or to complete all of his obligations as set forth in this Agreement will result in Respondent being liable for the full civil penalty, without any further hearing or administrative or adjudicatory process.

6. Respondent agrees and stipulates that failure to complete his obligations as set forth in this Agreement and/or pay the settlement amount within ten (10) days of the Commission's final order shall also be deemed a waiver by Respondent of any and all rights to file exceptions and/or a request for rehearing, reargument, and reconsideration, or any other form of appeal. This result will mean neither the Commission nor Staff will incur additional time and expense to prosecute the full civil penalty.

7. Respondent further agrees that if any repeat violation of the violations admitted to herein is found by the Commission to have occurred within twelve months of the date of a final Commission order in this Docket, Respondent shall be liable for the full civil penalty, less payments made. In this event, the remaining full civil penalty will be due immediately. Respondent and Staff agree the specific intent of this provision is to prevent further violations of the Public Utilities Laws and Commission Rules.

8. The Parties agree all matters that were raised or could have been raised in this Docket relating to the issues specifically identified and addressed herein have been resolved by this Agreement. This Agreement may be executed in counterparts, each of which when taken together shall constitute the entire Agreement of the Parties, and no further modification of this Agreement is allowed, except in writing by the parties, and further agreed to in an order issued by the Commission.

9. In the event that this Agreement is modified or not approved in its entirety, either Party, at that Party's option, may withdraw from this Agreement by filing a notice with the Commission in this Docket within seven (7) days of entry of such Order. In that event, this matter shall be set for hearing.

EXECUTED this 14th day of May 2012.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

approved as to form:

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