

3. Relevant to this matter, I investigated Respondent Hummers of Vail Inc. DBA Vail Taxi Service &/or ECO Limo of Vail &/or Vail Luxury Limo &/or Vans to Vail Valley (“Hummers”). Hummers is a motor carrier as defined in section 40-10.1-101(10), C.R.S.

4. Upon investigating motor carriers, I review Commission records regarding the specific carrier. The Commission's Integrated Filings Management System ("IFMS") database indicated that HummersofVail Inc. is a corporation that does business under names including VailTaxiService, ECOLimooofVail, VailLuxuryLimo, and VanstoVailValley. Hummers' designated agent is Jonathan L. Levine, and its address is 2121 North Frontage Rd #212, Vail, Colorado 81657.

5. Commission records indicate that Hummers holds a permit to provide luxury limousine services pursuant to permit no. LL-01417, which it has held since July 2005. Hummers has no other transportation permit or authority (*i.e.*, Hummers does not hold authority to offer to operate as a common carrier as defined in section 40-1-102(3)(a)(I), C.R.S.).

6. Pursuant to this investigation, I reviewed Commission records of prior complaints against Hummers the Commission received and the resulting investigations. Commission records revealed the following:

- a. In July 2005, a complaint alleged that Hummers was soliciting transportation in the Vail area without prearrangement (Case No. 75603). Investigative staff of the Commission ("Staff") followed up but did not personally observe Hummers committing violations, so the complaint was subsequently closed.
- b. In October 2006, a complaint alleged that Hummers displayed vehicle signage advertising transportation service at "taxi rates" (Case No. 81047). Hummers was issued a violation warning for displaying

exterior signs or graphics on a luxury limousine, in violation of 4 *Code of Colorado Regulations* (“CCR”) 723-6-6304(c)(II).

- c. In January 2007, Staff issued Civil Penalty Assessment Notice (“CPAN”) No. 82145 against Hummers for displaying exterior signs or graphics on a luxury limousine and for providing luxury limousine service without prearrangement, in violation of 4 CCR 723-6-6304 and -6309. Hummers paid the CPAN within 10 days, to receive a reduced penalty amount.
- d. In July 2007, a complaint alleged that on multiple occasions, Hummers solicited passengers at the Vail Transportation Center without prearrangement, and that signage on the vehicle read “Available” (Case No. 84108).
- e. Staff conducted a Safety and Compliance Review (“SCR”) of Hummers in November 2007 to assess their compliance and address the aforementioned allegations. During the SCR, Hummers was specifically advised of the rules regarding prearrangement of service and the prohibition of arranging service at the point of departure. During the SCR, investigators noted other violations relating to driving records, medical certificates, submission of fingerprints for a background check, and time records. Staff issued CPAN No. 84108 for the time record violations. At a hearing on the CPAN in January 2008, Hummers failed to appear. Hummers was assessed a civil penalty for

the full amount of the CPAN; Hummers subsequently paid the full penalty amount.

- f. In May 2008, Staff issued CPAN No. 87526 to Hummers for providing luxury limousine service without prearrangement. A hearing was held on the CPAN at which Hummers appeared. The Commission found Hummers committed the violation as cited in the CPAN and assessed a civil penalty of \$1,100. Hummers subsequently failed to pay the civil penalty.
- g. In May 2010, Staff conducted another SCR of Hummers. Hummers' owner, Jonathan Levine, acknowledged understanding of the rule that transportation by luxury limousine must be prearranged. The SCR noted violations of Commission rules including the rule requiring submission of fingerprints for a background check, 4 CCR 723-6-6105(g)(I). Staff issued CPAN No. 95278 for the fingerprint violation, which was discovered in the previous SCR and thus a repeat violation. Hummers paid the CPAN within 10 days, to receive a reduced penalty amount.
- h. In September 2011, a complaint alleged that Hummers advertised a name other than its permitted name (Case No. 101539). Investigators again warned Hummers to remove advertising for any name which it had no authorization.

- i. In March 2012, investigators met with Mr. Levine to discuss Commission rules governing luxury limousine service and how Hummers could come into compliance with the rules. Also in March of 2012, Staff issued CPAN Nos. 103147, 103174, 103175, 103177, and 103180, which were consolidated into a single proceeding. In each of the CPANs, Hummers was cited for providing luxury limousine service without prearrangement during February 2012. In June of 2012, in the consolidated proceeding, the Commission accepted Hummers' settlement stipulation with Staff, including: Hummers' admission of liability to all violations and payment of a \$1,250 penalty (the remainder of the \$3,025 penalty was suspended). Hummers agreed to pay the balance of the penalty amount if it was found in violation of the same rule within a year. Hummers specifically represented that it had implemented new procedures to prevent its vehicles from stationing at a point of departure without prearrangement; and that it implemented a new training policy on Commission rules and would strictly enforce the policy.
- j. Two months later, in August of 2012, investigators discovered that Hummers was again offering luxury limousine service without prearrangement. Staff issued CPAN No. 104597, with the penalty doubled to \$1,100.00 in accordance with section 40-7-113(3), C.R.S. Following a hearing in December of 2012, at which Hummers failed to

appear, the Commission found Hummers in violation and assessed the full penalty amount. Moreover, the recommended decision noted Hummers' "long-standing actual knowledge" of Commission rules prohibiting offering luxury limousine service without prearrangement and Hummers' "intentional disregard" of that rule, Hummers' representations in the settlement stipulation, and Hummers' "unwillingness to come into compliance." *See* Decision No. R13-0030 at ¶ 65. The Commission further ordered Hummers to immediately cease and desist from providing any transportation service that is not luxury limousine service. *See* Decision No. R13-0030 at p. 21. The order pointed out that Hummers had made no good faith effort to come into compliance or prevent future violations, and the repeated violation of the same rule prohibiting offering luxury limousine service without prearrangement had continued unabated over the last six years. Hummers subsequently failed to pay the penalty.

- k. Around that same time, in November 2012, the Commission held a hearing on a formal complaint filed by a Vail taxicab company, High Mountain Taxi, alleging that Hummers transported passengers in violation of Commission rules. (Hummers failed to respond to the complaint or appear at the hearing). After the hearing, the Commission's order noted Hummers' "pattern" of violating the rule prohibiting luxury limousine service without prearrangement, *see*

Decision No. R12-1482 at ¶ 56 (citing 4 CCR 723-6-6309), and concluded that Hummers has “for a considerable amount of time” “had actual knowledge that it cannot provide transportation service other than luxury limousine service” and that “continuously since at least 2005, ... has ... and continues to advertise and otherwise to hold itself out to the public as a motor carrier that provides taxi service . . . notwithstanding [its] knowledge that it is not authorized to provide that transportation service.” Decision No. R12-1482 at ¶ 63. The Commission ordered Hummers and its officers, executives, drivers, agents, and contractors immediately cease and desist from providing any transportation service not authorized by its permit, and cease and desist from advertising any transportation service not authorized by its permit. Decision No. R12-1482 at p. 18.

1. In January 2013, a complaint alleged that Hummers was soliciting customers at the point of departure in violation of Commission rules (Case No. 105697). During an undercover investigation, investigators were not offered transportation at the point of departure and the complaint was subsequently closed. Also in January 2013, a complaint was opened as a result of the aforementioned undercover investigation. During the investigation, it was determined that a person providing transportation on behalf of Hummers was using a vehicle that did not have any PUC markings on it (PUC permit number), nor did it have a

required PUC registration stamp. Hummers was subsequently issued a violation warning for 4 CCR 723-6-6103(a)(III) (No external markings) and 4 CCR 723-6-6009(g) (No PUC stamp).

- m. In February 2013, Staff filed a motion concerning the 2012 settlement terms (proceeding number 12G-345EC) where, based upon Hummers' violation of the same rule within a year, the suspended penalty amount had become due. The Commission found the circumstances warranted Hummers' payment of the penalty amount that had been suspended per the settlement, and ordered Hummers to pay a civil penalty of \$1,775.00. Decision No. C13-0352. Hummers failed to pay the penalty.
- n. In October 2013, the Commission instituted a formal complaint against Hummers seeking revocation of Hummers' permit in accordance with section 40-10.1-112(1), C.R.S., for failure to pay civil penalties assessed (described in paragraphs (j) and (m), *supra*). At a December 13, 2013, hearing, the Commission found the respective deadlines to pay those two civil penalties had passed, and ordered Hummers' permit revoked unless Hummers paid the total civil penalties assessed. Hummers paid the penalty assessments thereby avoiding revocation.

- 7. In November 2013, the Commission received a complaint alleging that Hummers was advertising on the Internet as a taxi service, despite the fact

that Hummers' sole transportation permit is a luxury limousine permit (Case No 108060).

8. As part of my investigation of the complaint, I conducted a Google search for "taxi service in Vail, Colorado." Based upon the search results, I found:

- a. Hummers has several names it does business as that include the word "taxi," such as "Vail Taxi Service."
- b. A website called "vailtaxiservice.com" advertising "*taxi service*" at various flat rates, and rates at "*\$18 per person plus gratuity.*" The phone number and address on the website corresponded to the phone number and address registered to Hummers.
- c. Another website of Hummers, "hummersofvail.com", advertises "*Hummers of Vail, Inc. – Local taxi service and airport service...*" and "*Vail's Best TAXI Service.*"
- d. Hummers advertises through other third-party websites, including Superpages, Yellow Pages, and Yahoo, under the business category "taxi services." All associated websites advertise the same phone number (970-977-0028).
- e. A Google search using another phone number on the Vail Taxi Service website (970-401-0825) revealed other advertisements for Vail Taxi Service on a website called "From A to B," where "Vail Taxi" was listed in categories named "Taxi in Minturn" and "Taxi in Vail" with an address of 2121 North Frontage Road West, Vail, CO 81657 and phone numbers 970-401-0825 and 970-401-1892.
- f. Upon searching the phone number 970-401-1892 on the Google search engine, a page titled "About Vail Taxi Service" was discovered. The page appeared to be a directory through the Google search engine where individuals can learn more about various businesses. Within the "About Vail Taxi Service" category was a link to "vailtaxiservice.com." Upon clicking on the aforementioned link, I was directed to the Vail Taxi Service website.

9. On May 30, 2014, I discovered that the website vailtaxiservice.com had been removed and was no longer visible. However, Hummers was still advertising "local taxi service" on the Hummers of Vail website and "local taxi service" on the

thumbtack.com website. Then on July 1, 2014, I discovered the vailtaxiservice.com website was back up and operational. This version of the website indicated the phone number for Vail Taxi Service as 970-401-0825; however, the "Contact us" portion of the website, the phone number 970-977-0028 was listed as a contact phone number. The previous iteration of the vailtaxiservice.com website, as described above in paragraph 8, used this same telephone number. Although the phone number had changed to 970-401-0825, the address listed for Vail Taxi Service on the website was still 2121 North Frontage Road #212, West Vail, CO 81657.

10. Information from the Colorado Secretary of State website indicated "Vail Taxi Service" is a registered trade name for Hummers. The registered agent for Hummers is Jonathan L. Levine at 2121 North Frontage Road, Unit 212 in Vail, Colorado. Additionally, "Vail Taxi Service" is described as *"A Vail Taxi Service taxiing people around the Vail and Surrounding Areas."*

11. Upon the discovery of Internet advertisements between the dates of November 2013 through October 3, 2014, it was determined that Hummers is offering to operate and/or operating in a manner that violates the Commission's cease and desist order in Decision No. R12-1482, violates Commission rules, and in a way that creates a potential public safety risk.

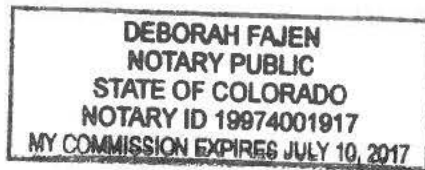
I declare under penalty of perjury under the laws of the State of Colorado that the foregoing is true and correct to the best of my knowledge.

Dated this 26 day of November, 2014.

W. Schlitter

WILLIAM SCHLITTER
Criminal Investigator, Transportation Section
Public Utilities Commission for the
State of Colorado

SUBSCRIBED AND SWORN TO before me by William Schlitter this 26th day of
November, 2014.



Deborah Fajen

NOTARY PUBLIC

My commission expires: 7/10/17