

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Proceeding No. 14G-0991EC

Civil Penalty Assessment Notice No. 109820

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

US. SEDAN SERVICE INC.,

Respondent.

STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission ("Staff") and Respondent US. Sedan Service Inc. ("Respondent") (collectively, the "Parties") enter into this Stipulation and Settlement Agreement ("Agreement") in the above-referenced proceeding as a complete and final resolution of all issues that were or could have been raised in this proceeding. Adil Fanou, president of Respondent, has authority to enter into settlement on behalf of Respondent.

Background

On July 17, 2014, Staff issued Respondent Civil Penalty Assessment Notice No. 109820 (the "CPAN"), which alleged five violations of 4 *Code of Colorado Regulations* ("CCR") 723-6-6105(i)(I) (permitting a driver to drive who has not submitted fingerprints to the Commission for a criminal history record check) and

sought civil penalties of \$1,512.50 (or \$756.25 if paid within 10 days). The CPAN was served by personal service on September 30, 2014.

Settlement Agreement

Staff and Respondent hereby stipulate and agree as follows:

1. Staff will dismiss violation Nos. 4 and 5 in the CPAN.
2. Respondent admits liability to the remaining violations, Nos. 1, 2, and 3 in the CPAN.
3. Respondent agrees to comply with all Colorado statutes and Commission Rules concerning fingerprint-based criminal history record checks of drivers.
4. The Agreement herein has been reached in the spirit of compromise, in light of the uncertainties of trial, and to avoid the costly expense of litigation. The Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter. The public interest is served by requiring Respondent to pay a civil penalty in the amount of \$550.00 under the terms herein. In reducing the penalty, Staff considered the following mitigating factors pursuant to Commission Rule 1302(b):
 - a. Respondent acknowledges wrongdoing.
 - b. Upon Staff's dismissal of violation Nos. 4 and 5 in the CPAN, Respondent admits the maximum level of culpability for the remaining violations Nos. 1, 2, and 3 in the CPAN.
 - c. Since the issuance of the CPAN, Respondent submitted his fingerprints to the PUC on September 24, 2014, bringing him into compliance.

- d. Respondent contacted the PUC on January 2, 2015, as soon as he was able, to resolve this matter (Respondent indicated he had been out of state for the past several weeks and unable to contact the PUC before that date).
- e. Respondent is a single driver / single vehicle carrier.
- f. Assessing Respondent a civil penalty of \$550.00 under the terms herein is sufficient motivation for Respondent to remain in compliance with the Public Utilities Laws and Commission Rules on a going-forward basis.

5. In consideration of Respondent's admission of liability, and for the reasons expressed above, Staff agrees reducing the amount of the civil penalty from \$1,512.50 to \$550.00 is appropriate and in the public interest. This \$550.00 settlement amount consists of a \$500.00 penalty, plus a ten-percent surcharge of \$50.00 pursuant to section 24-34-108, C.R.S.

6. Respondent shall pay the total amount of \$550.00 in a single payment, due within 10 days of the Commission's final order approving this Agreement.

7. If Respondent fails to make the payment when due, Respondent shall be liable for the full civil penalty amount of \$1,512.50, which amount will be due immediately.

8. Respondent further agrees that if, during any investigation(s) conducted by Staff within twelve months of the date of a Commission final order in this proceeding, the Commission finds any violations of Commission Rule 4 CCR 723-6-6105, Respondent shall be liable for the full civil penalty, less any payment 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.

9. All matters that were or could have been raised in this proceeding 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.


10. Respondent's failure to complete its payment obligation as set forth in this Agreement shall be deemed a waiver by Respondent of any and all rights to file exceptions and/or a request for rehearing, reargument, and reconsideration, or to file any other form of appeal.

11. 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 proceeding within seven days of entry of such order. In that event, this Agreement shall be void and this matter shall be set for hearing.

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Executed this 8 day of January, 2015.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION


By: 
Cliff Hipson
Manager, Investigations and Compliance
Colorado Public Utilities Commission
1560 Broadway Suite 250
Denver, Colorado 80202

US. SEDAN SERVICE INC.

By: Adil FANLOU
Title: OWNER
US. Sedan Service Inc.
13086 East Kansas Place
Aurora, CO 80012
Phone: (720) 427-1782
Email: us.sedan@yahoo.com

Approved as to form:

JOHN W. SUTHERS
Attorney General

By: 
Michael J. Axelrad, Reg. No. 24460*
Arax Ruth Corn, Reg. No. 42990*
Assistant Attorneys General
Revenue and Utilities Section
Colorado Department of Law
1300 Broadway, 8th Floor
Denver, Colorado 80203
Phone: (720) 508 -6359 (Axelrad)/ -6365 (Corn)
Fax: (720) 508-6038
Email: michael.axelrad@state.co.us;
arax.corn@state.co.us
*Counsel of Record
*Counsel for Staff of the
Public Utilities Commission*