

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO
PROCEEDING NO. 17G-0812TO

PUBLIC UTILITIES COMISSION OF THE STATE OF COLORADO,
COMPLAINANT,

V.

JACKSON COUNTY TOWING,
RESPONDENT.

STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission (Staff) and Respondent Jackson County Towing (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. Chris Ramsey has authority to enter this Agreement on behalf of Respondent.

Background

1. On November 29, 2017, Staff issued Respondent Civil Penalty Assessment Notice No. 119072 (the CPAN) seeking civil penalties of \$13,915.00 (or \$6,957.50 if paid within 10 days). The CPAN alleged one violation of § 40-10.1-107(1), C.R.S.; and one violation of § 40-10.1-401(1)(a), C.R.S. The CPAN was served via certified mail on December 1, 2017.

Settlement Agreement

2. Staff and Respondent hereby stipulate and agree as follows:
3. Respondent admits liability to all CPAN violations.
4. Respondent agrees to comply with all Colorado and federal statutes and rules concerning tow carriers.
5. Respondent agrees to cease and desist operating as a tow operator, owner, or manager for a period of three years from the date of a final order in this matter.
6. 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 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 the payment by Respondent of a civil penalty in the amount of \$6,957.48 under the terms in this Agreement. In reducing the penalty, Staff considered the following mitigating factors pursuant to Commission Rule 1302(b):
 - a. Respondent provided documentation supporting that he has sold his tow trucks and is no longer engaged as a tow carrier.
 - b. Respondent has four young children to support and operates on a fixed income.
 - c. Payment of the full amount of the CPAN would cause Respondent a financial hardship.
 - d. Respondent is currently employed with an oil company.

- e. Respondent knows he needs an active permit and insurance on file with the Commission in order to provide a towing service.

7. In consideration of Respondent's admission of liability, and for the reasons expressed above, Staff agrees reducing the amount of the civil penalty from \$13,915.00 to \$6,957.48 is appropriate and in the public interest. This \$6,957.48 settlement amount consists of a \$6,049.98 penalty, plus a fifteen-percent surcharge of \$907.50 pursuant to § 24-34-108(2), C.R.S.

8. Respondent shall pay the total amount of \$6,957.48 in twelve (12) equal payments. The first payment of \$579.79 is due within ten (10) days of the date a recommended decision in this case becomes an order of the Commission due to the Commission's inaction for twenty (20) days following the recommended decision; OR upon being adopted as the Commission's final order approving this Agreement.

9. The first of the following eleven (11) equal payments of \$579.79 shall be due thirty (30) days from the due date of the first payment. Each of the following ten (10) equal payments of \$579.79 shall be due thirty (30) days from the due date of the prior payment.

10. If Respondent fails to make any of the installment payments when due, Respondent shall be liable for the full civil penalty amount of \$13,915.00 less any payments made, which amount will be due immediately.

11. Respondent further agrees that if, during any investigation(s) conducted by Staff within twelve months of the date of a final order in this proceeding, the Commission finds any violations of rules or statutes concerning any of the admitted

violations, or any violations of the cease and desist order, 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 that the specific intent of this provision is to prevent further violations of the Public Utilities Laws and Commission Rules, both federal and state.

12. All matters that were raised 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.

13. Respondent's failure to complete its payment obligations as set forth in this Agreement 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 to file any other form of appeal.

14. 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 20 day of February, 2018.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

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