

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO
PROCEEDING NO. 18G-0580CP

Civil Penalty Assessment Notice: 121895

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

PHILIP HENRY GORSKI,

Respondent.

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission (Staff) and Respondent Philip Henry Gorski (Respondent) (collectively, the Parties and singularly, Party) enter into this Stipulation 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. Philip Henry Gorski has authority to enter into this Agreement on his own behalf as the Respondent.

BACKGROUND AND RECITALS

1. On August 18, 2018, Staff issued and filed Civil Penalty Assessment or Notice of Complaint to Appear Number 121895 (CPAN). Staff served the CPAN on the Respondent through personal service by handing it to him on the same day.
2. The CPAN alleges one violation each of Sections 40-10.1-107(1) and 40-10.1-201(1), C.R.S. on August 18, 2018 by the Respondent. The CPAN states that

the civil penalties assessed for the alleged violations amount to \$12,100.00, plus an additional 15 percent surcharge of \$1,815.00, for a total amount of \$13,915.00. The total amount for the first count of the CPAN is \$12,650.00 (\$11,000.00, plus a \$1,650.00 surcharge). The total amount for the second count of the CPAN is \$1,265.00 (\$1,100.00, plus a \$165.00 surcharge). The CPAN further provides that if the Respondent pays the civil penalty within 10 calendar days of his receipt of the CPAN, the civil penalty violation will be reduced to \$6,957.50.

3. This proceeding is set for a one-day hearing starting on December 5, 2018.

SETTLEMENT AND AGREEMENT

4. The Parties have reached a settlement in this matter. The settlement amount includes a penalty amount of \$6,957.50, which includes a fifteen percent surcharge of \$907.50, pursuant to Section 24-34-108(2).

5. The Respondent admits liability for all violations alleged in the CPAN.

6. In consideration of the following promises and agreements set out below in the Settlement Agreement and for other good and valuable consideration, the sufficiency and adequacy of which are acknowledged herein, the Parties have agreed to the following terms and conditions:

A. Performance by Staff:

- i. Staff will agree to reduce the total amount of the penalty from \$13,915.00 to \$6,957.50, and therefore, will allow the Respondent to pay one-half of the penalty amount, which

includes the total penalty amount of \$6,050.00, plus the surcharge amount of \$907.50, for a total penalty amount of \$6,957.50.

- ii. Staff will agree to consider the following mitigating factors, pursuant to Commission Rule 1302(b), in reducing the penalty amount:
 - a. The Respondent contacted Staff within 10 days in an effort to resolve this matter.
 - b. The Respondent actively worked with the PUC on several occasions to resolve the CPAN.
 - c. The Respondent has agreed that he must obtain a Colorado Public Utilities Commission permit in order to provide for-hire transportation services and will not operate without Public Utilities Commission authority until such time as a permit is issued to him.
 - d. The Respondent has represented to Staff that the full payment of the agreed upon penalty amount of \$6,957.50 would cause financial hardship.

B. Performance by Respondent

- i. The Respondent shall pay one-half of the total penalty amount in the CPAN, or \$6,050.00, plus the surcharge amount of \$907.50, for a total payment of \$6,957.50.

- ii. The Respondent shall pay the penalty amount in Paragraph 6(B) in 10 equal payments of \$695.75.
- iii. The first payment shall be due 20 days after the date of the Public Utilities Commission's final decision in this proceeding. The remaining payments shall be made every 30 days thereafter.
- iv. If the Respondent fails to make a timely payment according to the conditions in Paragraph 6(B)(ii) and 6(B)(iii), the balance owed on the total penalty amount in the CPAN of \$13,915.00, less any payments already made, will be due and owing immediately.
- v. If the Respondent violates any of the admitted violations in this docket, the full amount of the penalty, less any payments already made, is due and owing immediately.
- vi. The Respondent agrees that he will comply with all requirements of Sections 40-10.1-107(1) and 40-10.1-201(1), C.R.S.

7. This Settlement Agreement has been reached in the spirit of compromise and to avoid the uncertainties of trial and the costly expense of litigation.

8. This Settlement Agreement promotes administrative efficiency because it avoids the time and expense that necessarily would be devoted to preparing for and attending the hearing for this proceeding.

9. This Settlement Agreement serves the public interest because it requires the Respondent to pay a civil penalty of \$6,957.50 according to the terms of Paragraph 6(B).

10. The parties agree that all matters that have been raised, or that could have been raised, in this proceeding have been resolved by this Settlement Agreement.

11. This Settlement Agreement may be signed in counterparts, each of which, taken together, shall constitute the entire Agreement of the Parties.

12. This Settlement Agreement may not be modified by the Parties, except in writing, with express agreement of each party, and with approval of the Commission.

13. The Respondent's failure to comply with the payment schedule and to complete the payment obligations described in Paragraph 6(B) of the Settlement Agreement shall be deemed as a waiver by the Respondent of any rights and all rights to file exceptions, as well as a request for rehearing, re-argument, and reconsideration, or to file any other form of appeal.

14. Should this Settlement Agreement be modified or not approved in its entirety by Administrative Law Judge or the Commission, either Party, at that Party's option, may withdraw from this Settlement Agreement by filing a notice

with the Commission in this proceeding within seven days of entry of such order. In this event, this Settlement Agreement shall be void and this matter be reset for hearing.

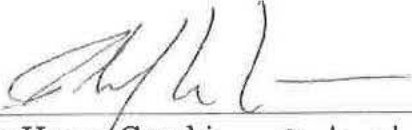
Dated this 16~~th~~ day of September, 2018.

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COMPLAINANT STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION

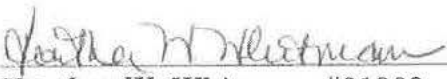
By: _____
Anthony Cummings
Lead Criminal Investigator
Colorado Public Utilities Commission
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Denver, CO 80202

RESPONDENT PHILIP HENRY GORSKI

By:  _____
Philip Henry Gorski Philip H. Gorski 10/16/18
P.O. Box 1543
Winter Park, CO 80482

Approved as to form:

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