

Decision No. R24-0629-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0085TO

PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SERGIO CORNEJO DOING BUSINESS AS MNS TOWING LLC,

RESPONDENT.

**INTERIM DECISION
GRANTING, STAFF'S MOTION TO AMEND
CPAN AND AMENDING CPAN**

Mailed Date: September 4, 2024

I. STATEMENT

1. This proceeding concerns Civil Penalty Assessment Notice ("CPAN") No. 137420 issued by Commission Staff on February 22, 2024 ("CPAN No. 137420"), against Respondent Sergio Cornejo, doing business as MNS Towing, LLC ("Respondent" or "MNS Towing"). CPAN No. 137420 assessed MNS Towing a total penalty of \$4,427.50 for violation of Rules 6508(b)(I), 6007(j), 6007(k), 6-6007(l), 4 *Code of Colorado Regulations* ("CCR") 723-6, and

§§ 40-10.1-405(2)(a)(I) and (II), and CCR 723-6-6511(h)(III), Colo. Rev. Stat. (2024), as more specifically listed in CPAN No. 137420.

2. On May 17, 2024, Trial Staff of the Commission (“Staff”) filed its Notice of Intervention as of Right by Trial Staff of the Commission, Entry of Appearance, Notice Pursuant to Rule 1007(A) and Rule 1401, and Request for Hearing.

3. On May 29, 2024, the Commission referred this proceeding to an Administrative Law Judge (“ALJ”) by minute entry.

4. By Decision No. R24-0395-I, issued June 10, 2024, the undersigned ALJ, among other things, set an evidentiary hearing for September 4, 2024 in this Proceeding. 4.

5. On August 14, 2024, Staff filed its Motion to Amend CPAN and Shorten Response Time (“Motion”). Through the Motion, Staff seeks to amend the Nature of Violation for No. 7 in CPAN No. 137420 and shorten response time to the Motion to seven days.¹ As pertinent herein, Staff requests to change the wording of Violation No. 7 in CPAN No. 137420 from “Carrier failed to follow procedures upon the sale of a motor vehicle greater than \$350” to “Carrier failed to follow procedures upon the sale of a motor vehicle by failing to get an appraisal performed by an independent third person in accordance with C.R.S. 42-4-2104(1)(a).”² Staff explains that, as originally worded, Violation No. 7 is not “specific enough as to which procedural requirements Respondent violated.”³

¹ Motion at pg. 2-3.

² *Id.* at ¶¶ 8, 10.

³ *Id.* at ¶ 9.

6. By Decision No. R24-0612-I, issued August 22, 2024, the undersigned ALJ granted the Motion, in part, as to a portion of Staff's request to shorten response time⁴ and stated that the remaining relief sought in the Motion will be addressed by a separate decision.⁵

7. Response time to the Motion for Extension of Time has passed, and no response to the same has been filed. As such, pursuant to Rule 1308(f) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, the allegations made in the Motion may be deemed admitted.

8. The ALJ finds and concludes that Staff stated good cause for its request to amend Violation No. 7 of CPAN No. 137420. As such, this request will be granted, as ordered below.

II. ORDER

A. It Is Ordered That:

1. Consistent with the discussion above, the Motion to Amend CPAN and Shorten Response Time, filed August 14, 2024 is granted as to Staff's request to amend Violation No. 7 in Civil Penalty Assessment Notice No. 137420, issued by Commission Staff on February 22, 2024 ("CPAN No. 137420").

2. Consistent with the discussion above, Violation No. 7 in CPAN No. 137420 is amended to read: "Carrier failed to follow procedures upon the sale of a motor vehicle by failing to get an appraisal performed by an independent third person in accordance with C.R.S. 42-4-2104(1)(a)."

⁴ While Decision No. R24-0612-I shortened response time, it allowed Respondent nine days within which to respond to the Motion, as opposed to the seven the seven days that Staff requested in the Motion.

⁵ Decision No. R24-0612-I at ¶ 8.

3. This Decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Aviv Segev

Administrative Law Judge