

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 05G-031CP

STIPULATION AND SETTLEMENT AGREEMENT

COLORADO PUBLIC UTILITIES COMMISSION,

Complainant,

v.

RDSM TRANSPORTATION LTD., D/B/A/ YELLOW CAB COMPANY OF COLORADO
SPRINGS, ET.AL.

Respondent.

Staff of the Public Utilities Commission (Staff) and Respondent (Respondent). RDSM Transportation, Ltd., dba Yellow Cab Company of Colorado Springs, et.al, (collectively Parties), enter into this Stipulation and Settlement Agreement (Agreement) in the above-referenced docket as a complete and final resolution of all issues.

Background

1. On January 14, 2005, the Commission issued Respondent Civil Penalty Assessment Notice (CPAN) No. 73216 seeking civil penalties of \$8,200 (or \$4,100 if paid within 10 days). CPAN No. 73215 was issued in connection with a safety and compliance review conducted by Staff Investigator Paul Hoffman, who cited Respondent with 42 violations of the Commission's *Rules Regulating Safety for Motor Vehicle Carriers and Establishing Civil Penalties, 4 Code of Colorado Regulations (CCR) 723-15*. Specifically, CPAN No. 73216 cited Respondent for:

4 violations of 4 CCR 723-15-2.1 and Title 49, *Code of Federal Regulations* (CFR), Part 391.23(c) and (a)(2) [Violation No. 1];

25 violations of 4 CCR 723-15-2.1 and Title 49, CFR, Parts 395.8(a) and [Violation No.2];

2 violations of 4 CCR 723-15-2.1 and Title 49, CFR, Part 396.3(b)(1)[Violation No.3];

5 violations of 4 CCR 723-15-2.1 and Title 49, CFR, Part 396.3(b)(2) [Violation No. 4]; and

5 violations of 4 CCR 723-15-2.1 and Title 49, CFR, Part 396.3(b)(3) [Violation No.5].

Commission Rules 4 CCR 723-15-2.1 allows for a penalty of up to \$200.00 per violation.

A copy of CPAN No. 73216 is attached. Commission Rules 4 CCR 723-15-2.1 allows for a penalty of up to \$200.00 per violation.

2. On January 20, 2005, Respondent acknowledged liability with all of the violations, except for 4 violations of Violation No. 2 and paid the Commission \$3700.00. Respondent also requested a hearing on the four instances in Violation 2. On February 25, 2005, Administrative Law Judge (ALJ) Dale E. Isley issued Decision No. R05-0238-I, an Interim Order setting this matter for hearing on April 5, 2005, in Colorado Springs, Colorado.
3. On April 4, 2005, the Parties reached agreement to resolve the disputed issue based upon a full understanding of the facts, the records of the Respondent, and the rules concerning determination of the components used to determine that the twenty-five citations for the no record of duty status violations, and both Parties contacted the ALJ to inform him that a settlement in principal had been reached in this matter.

- 4.. On April 4, 2005, by oral Order, ALJ Isley vacated the April 5 hearing date, due to the parties representations of a settlement in principal.
5. On April 4, 2006, after lengthy discussions, the Parties reached agreement to resolve all disputed issues. 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 Parties note that the Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter in Colorado Springs, Colorado, which is a considerable distance from the Commission's headquarters in Denver, Colorado. Lastly, the Parties acknowledge that this settlement will not have precedential effect on any other Commission matters. *See Colorado Ute Elec. Ass'n, Inc. v. PUC*, 602 P.2d 861, 865 (Colo. 1979); *B & M Serv., Inc. v. PUC*, 429 P.2d 293, 296 (Colo. 1967).

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Settlement Agreement

6. Staff and Respondent hereby stipulate and agree as follows:
- a. Respondent admits liability to the remaining 4 violations in CPAN No. 73216—that is, Violation No 2.
 - b. In consideration of Respondent's admission of liability in subparagraph 4 (a), above, and for the reasons expressed in paragraph 3, above, Staff agrees to reduce the amount of the civil penalty from \$800.00 to \$400.00.
 - c. Respondent agrees to make a payment in the amount of \$400.00 to the Public Utilities Commission. The payment shall be made within ten (10) days after the issuance of a final decision of the Commission approving this Agreement. Provided, however, if Respondent does not make payment to the Commission in a timely manner as set forth herein, then Respondent's admission of liability in subparagraph (4)(a), above, shall constitute conclusive evidence that the 4 violations alleged in CPAN No. 28540 Violation No. 2 occurred and that the civil penalty sought is justified and, thus, Respondent shall be immediately liable for \$800.00, which is the remaining amount sought in CPAN No. 73216.
7. In the event that this Agreement is modified or not approved in its entirety, either Staff or Respondent, at that Party's option, may withdraw from this Agreement by providing notice within seven (7) days of entry of such Order. In that event, this docket shall be set for hearing in Denver, Colorado.

WHEREFORE, Staff of the Public Utilities Commission and Respondent, RDSM Transportation, Ltd., doing business as Yellow Cab of Colorado Springs, request the Commission enter an Order approving, without modification, this Stipulation and Settlement Agreement.

EXECUTED this ____ day of April, 2005.

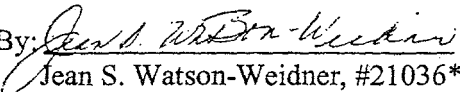
STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

By: _____

Robert Laws
1580 Logan Street, OL2
Denver, Colorado 80203
Senior Compliance Investigator
Colorado Public Utilities Commission

JOHN W. SUTHERS, ATTORNEY GENERAL

approved as to form:

By: 
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COUNSEL FOR STAFF OF THE
PUBLIC UTILITIES COMMISSION

*Counsel of Record

RDSM Transportation Ltd., d/b/a/
Yellow Cab of Colorado Springs, et.al.

By: 

Duane Kamins
Owner, Operator, Officer

Certificate of Service

This is to certify that I have duly served **STIPULATION AND SETTLEMENT AGREEMENT** upon all parties herein by depositing copies of same in the United States mail, postage prepaid, at Denver, Colorado, this 24th day of April, 2005 addressed as follows:

RDSM Transportation, d/b/a/
Yellow Cab of Colorado Springs
4625 Town Center Drive
Colorado Springs, CO 80916

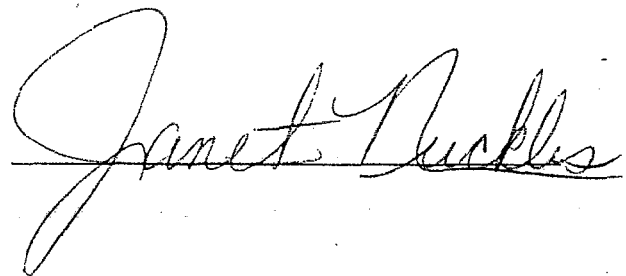
Duane Kamins
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Robert Laws
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Denver, Colorado 80203
BY INTERDEPARTMENTAL MAIL

Duane Kamins, Esq.
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Paul Hoffman
Public Utilities Commission
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BY INTERDEPARTMENTAL MAIL

Dino Ioannides
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BY INTERDEPARTMENTAL MAIL

A handwritten signature in cursive script, reading "Janet Buckles", written over a horizontal line.