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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 07G-131BP

Civil Penalty Assessment Notice No. 82098

See  
Bill F  
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**STIPULATION AND SETTLEMENT AGREEMENT**

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COLORADO PUBLIC UTILITIES COMMISSION,

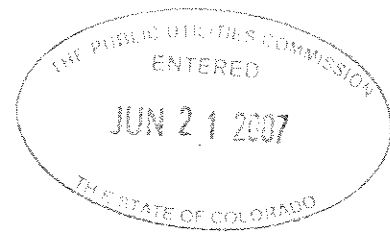
Complainant,

v.

AMERICAN TRANSIT EXPRESS, LLC,

Respondent.

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Staff of the Public Utilities Commission (Staff) and Respondent American Transit Express, LLC (Respondent) (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. In January 2007, the Commission issued Respondent Civil Penalty Assessment Notice No. 82098 (the CPAN) seeking civil penalties of \$850 (or \$425 if paid within 10 days). In essence, the CPAN alleged Respondent failed to maintain vehicle maintenance and duty status records—Count 1 of the CPAN alleged Respondent violated Commission Rule 6102(a)(II), 4 CCR 723-6, and 49 CFR 396.3(b)(2) on December 1, 2006; Count 2 of the CPAN alleged Respondent violated Commission Rule 6102(a)(I) on December 1, 2006; and Count 3 of the CPAN alleged Respondent violated Commission Rule 6102(a)(I) on December 2, 2006.

2. On May 3, 2007, the undersigned counsel for Staff entered his appearance on behalf of Staff.

3. The Commission set hearing in this matter on June 13, 2007.

4. Prior to hearing, the Parties reached a comprehensive settlement in principle and the undersigned counsel for Staff and Respondent presented via telephone on June 12, 2007 to Administrative Law Judge (ALJ) William J. Fritzler an oral unopposed motion to vacate the June 13 hearing. The ALJ granted the motion.

5. 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. Lastly, the Parties acknowledge that this Agreement 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).

6. The Parties submit the public interest is served by assessing Respondent a reduced civil penalty of \$300 under the terms herein. In reducing the penalty, the Parties considered the following mitigating factors:

- a. Respondent acknowledges wrongdoing and has taken corrective action to improve record keeping.
- b. Respondent represents it does not have the ability to pay the entire civil penalty.
- c. Staff is satisfied that assessing Respondent a civil penalty of \$300 under the terms herein is sufficient to motivate Respondent to remain compliant with the Public Utilities Laws and Commission Rules on a going-forward basis.

**Settlement Agreement**


7. Staff and Respondent hereby stipulate and agree as follows:
  - a. Respondent admits liability to all 3 violations in the CPAN.
  - b. In consideration of Respondent's admission of liability in subparagraph 7(a), and for the reasons expressed in paragraphs 5 and 6, Staff agrees to reduce the amount of the civil penalty from \$850 to \$300.
  - c. Respondent agrees to pay \$300 to the Colorado Public Utilities Commission in two installments as follows: \$150 within ten (10) days after the Commission's approval of this Agreement becomes final and \$150 within (40) days after the Commission's approval of this Agreement becomes final.
  - d. The foregoing lesser civil penalty is conditional so long as (1) payment is timely received by the Commission and (2) Respondent is not found to violate any Public Utilities Law in Articles 1 to 16 of Title 40 of the Colorado Revised Statutes relating to record keeping in a formal hearing on the merits of an alleged violation before the Commission within one (1) year of the effective date of the Commission Order approving this Agreement. Accordingly, the Parties agree to impose and suspend the remainder of the unpaid amount sought in the CPAN until such time these conditions are met (if at all). This liability shall be in addition to any other civil or criminal liability that may arise from such violation(s).
8. In the event 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 filing a notice with the Commission in this docket within seven (7) days of entry of such Order. In that event, this docket shall be set for hearing.

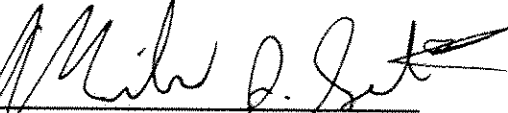
EXECUTED this 20~~th~~ day of June 2007.

STAFF OF THE COLORADO  
PUBLIC UTILITIES COMMISSION

*approved as to form:*

JOHN W. SUTHERS, ATTORNEY GENERAL

By:   
Robert Laws  
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Senior Criminal Investigator  
Colorado Public Utilities Commission

By:   
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**COUNSEL FOR STAFF OF THE  
PUBLIC UTILITIES COMMISSION**

\*Counsel of Record

AMERICAN TRANSIT EXPRESS, LLC

By:   
Frederick NnaNna

CERTIFICATE OF SERVICE

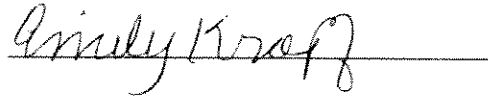
This is to certify that I have duly served the within STIPULATION AND  
SETTLEMENT AGREEMENT upon all parties herein by depositing copies of same in the  
United States mail, first class postage prepaid, or as otherwise indicated, at Denver,  
Colorado, this 20<sup>th</sup> day of June, 2007, addressed as follows:

Fred Nnanna  
American Transit Express  
4901 Durham Court  
Denver, CO 80239

Bob Laws  
Public Utilities Commission  
1560 Broadway Suite 250  
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