

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 07G-245BP

Civil Penalty Assessment Notice No. 83835

STIPULATION AND SETTLEMENT AGREEMENT

COLORADO PUBLIC UTILITIES COMMISSION,

Complainant,

v.

LARRY BENFORD and MORRIS GRAYS d/b/a COLORADO TRANSPORTATION,

Respondents.

Staff of the Public Utilities Commission (Staff) and Respondents Larry Benford and Morris Grays d/b/a Colorado Transportation (Respondents) (collectively Parties) (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 June 2007, the Commission issued Respondents Civil Penalty Assessment Notice No. 83835 (the CPAN) seeking civil penalties of \$5,000 (or \$2500 if paid within 10 days). The CPAN alleged Respondents operated a commercial motor carrier without medical examination and certification as physically qualified, which are Counts I and II of the CPAN.

2. On July 5, 2007, the undersigned counsel for Staff entered his appearance on behalf of Staff.

3. The Commission set hearing in this matter on August 14, 2007 at 1:00 p.m.

4. 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).

5. The Parties submit the public interest is served by assessing Respondents a reduced civil penalty of \$1000 under the terms herein. In reducing the penalty, the Parties considered the following mitigating factors:

- a. Respondents acknowledge wrongdoing and immediately took corrective action.
- b. Respondents are a first time offender.
- c. Respondents represent they do not have the ability to pay the entire civil penalty.
- d. Staff is satisfied that assessing Respondents a reduced civil penalty of \$1000 under the terms herein is sufficient to motivate Respondents to remain compliant with the Public Utilities Laws and Commission Rules on a going-forward basis.

Settlement Agreement

6. Staff and Respondents hereby stipulate and agree as follows:
 - a. Respondents admit liability to the 2 violations in the CPAN.
 - b. In consideration of Respondents' admission of liability in subparagraph 6(a), and for the reasons expressed in paragraphs 4 and 5, Staff agrees to reduce the amount of the civil penalty from \$5000 to \$1000.
 - c. Respondents agree to pay \$1000 to the Colorado Public Utilities Commission in five (5) installments as follows: \$200 within ten (10) days

after the Commission's approval of this Agreement becomes final and \$200 every thirty (30) days thereafter until fully paid.

- d. The foregoing lesser civil penalty is conditional so long as (1) payment is timely received by the Commission and (2) Respondents are not found to violate any Public Utilities Law in Title 40 of the Colorado Revised Statutes relating to operating a commercial motor carrier without medical examination and certification as physically qualified in a formal hearing on the merits of an alleged violation before the Commission within two (2) years 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).

7. In the event this Agreement is modified or not approved in its entirety, either Staff or Respondents, 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 10th day of August 2007.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

approved as to form:

JOHN W. SUTHERS, ATTORNEY GENERAL

By: 

Robert Laws
1580 Logan Street, OL2
Denver, Colorado 80203

Senior Criminal Investigator
Colorado Public Utilities Commission

By: 

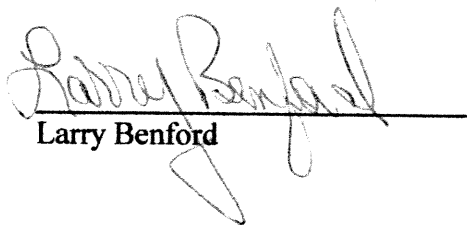
Michael J. Santisi, #29673*
Assistant Attorney General
Business and Licensing Section
1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: (303) 866-3764
Facsimile: (303) 866-5395
michael.santisi@state.co.us

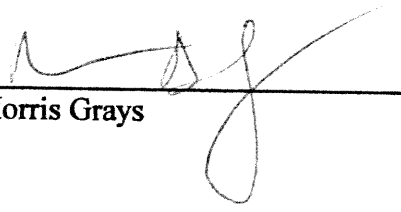
COUNSEL FOR STAFF OF THE
PUBLIC UTILITIES COMMISSION

*Counsel of Record

LARRY BENFORD

MORRIS GRAYS


Larry Benford


Morris Grays

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 10th day of August, 2007, addressed as follows:

Larry Benford
Morris Grays
Colorado Transportation
3455 York Street
Denver, CO 80205

Bob Laws
Public Utilities Commission
1560 Broadway Suite 250
Denver, CO 80202
BY INTERDEPARTMENTAL MAIL

Monita Pacheco
Public Utilities Commission
1560 Broadway Suite 250
Denver, CO 80202
BY INTERDEPARTMENTAL MAIL

Dino Ioannides
Advisory Staff
Public Utilities Commission
1560 Broadway Suite 250
Denver, CO 80202
BY INTERDEPARTMENTAL MAIL

