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PUBLIC UTILITIES COMM.

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 07G-431CP

Civil Penalty Assessment Notice No. 84990

STIPULATION AND SETTLEMENT AGREEMENT

COLORADO PUBLIC UTILITIES COMMISSION,

Complainant,

v.

BILL HOWARD dba UNIQUE TAXI & LIMOUSINE SERVICE,

Respondent.

Staff of the Public Utilities Commission (Staff) and Respondent Unique Taxi & Limousine Service (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 October, 2007, the Commission issued Respondent Civil Penalty Assessment Notice No. 84990 (the CPAN) seeking civil penalties of \$750.00 (or \$375.00 if paid within 10 days). The CPAN alleged Respondent violated 4 CCR 723-6-6102 and 49 CFR 391.21(a) (failure to require driver to furnish employment application) which is Count 1 of the CPAN; 4 CCR 723-6-6102 and 49 CFR 396.3(b)(2) (failure to create and maintain a preventive maintenance plan) which is count 2 of the CPAN; and 4 CCR 723-6-6102 and 49 CFR 396.3(b)(3) (failure to maintain records of inspection, repairs and maintenance of vehicles) which is Count 3 of the CPAN. The CPAN was the result of a Safety and Compliance Review

performed by Commission staff investigator Opeka in September, 2007 that divulged continuing record keeping violations from a previous Review.

2. On November 20, 2007, the undersigned counsel for Staff entered her appearance on behalf of Staff.

3. The Commission set hearing in this matter on December 13, 2007 at 1:00 p.m. The hearing was vacated at the request of the Respondent by Decision No. R07-1020-I mailed December 6, 2007. The hearing was rescheduled by agreement of the parties for January 30, 2008 at 9:00 a.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 Respondent the reduced civil penalty of \$300.00 to be paid in three installments of \$100 each. The first payment will be due within ten (10) days of a final Commission decision accepting the Stipulation and Settlement Agreement, with the remaining two payments due 30 days thereafter and sixty days thereafter, respectively. Respondent operates his business as a sole proprietorship with only one driver and one vehicle at this time and cannot afford the full assessment of the civil penalty without undue financial hardship. Respondent accepts Staff's position and has taken corrective

action. Staff is satisfied that these terms are sufficient to motivate Respondent to comply with the Public Utilities Law and the Commission's Rules in the future.

Settlement Agreement

6. Staff and Respondent hereby stipulate and agree as follows:
 - a. Respondent admits liability for Counts 1-3 in the CPAN.
 - b. Respondent agrees to pay \$100.00 to the Colorado Public Utilities Commission within ten days of a final decision of the Commission in this case. Respondent further agrees to pay \$100 within 30 days of the final Commission decision and the final \$100 within 60 days of the final Commission decision. Failure by Respondent to comply with the payment plan established herein will result in the full CPAN amount of \$750.00 being due and payable immediately, less any payments, if any, made to that point.
 - c. Respondent further agrees that if during the next Safety and Compliance Review conducted by the Staff of the Commission after the date of a Commission final order in this docket, should any violations for failing to require drivers to furnish employment applications, failure to create and maintain a preventive maintenance plan and failure to maintain records of inspection, repairs and maintenance for vehicles be found, Respondent shall be liable for the full amount pertaining to this docket of \$750.00, less any payments made in accordance with subparagraph 6 (b) above. In the event such occurs, such payment will be due immediately.
 - d. Given Respondent's admission in subparagraph 6(a) above, and agreement to comply with the requirements of subparagraphs 6(b) and (c) above, Staff agrees to reduce the CPAN amount from \$750.00 to \$300.00.

7. 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 27th day of January 2008.

approved as to form:

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

JOHN W. SUTHERS, ATTORNEY GENERAL

By: 

Robert Laws
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Senior Criminal Investigator
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**COUNSEL FOR STAFF OF THE
PUBLIC UTILITIES COMMISSION**

*Counsel of Record

BILL HOWARD dba UNIQUE TAXI & LIMOUSINE SERVICE,
Respondent

By: Bill Howard
Bill Howard, Owner
Unique Taxi & Limousine Service
919 E. 5th Street
P.O. Box 675
Delta, CO 81416

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STIPULATION AND SETTLEMENT AGREEMENT and JOINT MOTION TO VACATE HEARING, APPROVE STIPULATION AND SETTLEMENT AND WAIVE RESPONSE TIME 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 21 day of January, 2008, addressed as follows:

Bill Howard
Unique Taxi & Limousine Service
P.O. Box 675
Delta, CO 81416

Bob Laws
Public Utilities Commission
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