

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 09G-808CP

STIPULATION AND SETTLEMENT AGREEMENT AND MOTION FOR APPROVAL

COLORADO PUBLIC UTILITIES COMMISSION,

Complainant,

v.

Colorado Cab Company LLC dba Denver Yellow Cab

Respondent.

Staff of the Public Utilities Commission (Staff) and Respondent, Colorado Cab Company LLC, doing business as Denver Yellow Cab ("Yellow Cab," "Respondent," and/or "Company), (collectively Parties), enter into this Stipulation and Settlement Agreement (Agreement) in the above-referenced docket as a complete and final resolution of all issues. Staff and Yellow Cab request the Commission to enter an order approving this Agreement.

Background

1. On November 3, 2009, the Commission issued to Respondent Civil Penalty Assessment Notice (CPAN) No. 91898 seeking civil penalties (which includes as part of the total amount a 10% surcharge pursuant to § 24-34-108 CRS) of \$165,000.00 (or \$82,550.00 if paid within 10 days). CPAN No. 91898 was issued in connection with a safety and compliance review conducted by Staff Investigators John Opeka and Monita Pacheco, who cited Respondent with 60 violations of the Commission's *Rules Regulating Safety for Motor Vehicle Carriers and Establishing Civil Penalties*, 4 Code of Colorado Regulations (CCR) 723-6-6103 concerning hours of service of drivers. Specifically, CPAN No. 91898 alleged 60 violations of 4 CCR 723-
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hours of service of drivers. Specifically, CPAN No. 91898 alleged 60 violations of 4 CCR 723-6-6103(d)(IV)(B)(ii) by three drivers¹ at Denver International Airport for driving on specified days in February 2009 after being on duty more than 80 hours in 8 consecutive days. A copy of CPAN No. 91898 is attached as Exhibit A. Commission Rule 4 CCR 723-6-6105(b) allows for a penalty of up to \$2500.00 per violation.

2. On December 8, 2009, Administrative Law Judge (ALJ) Harris Adams issued Decision NO. R09-1316-I, an Interim Order setting this matter for hearing on February 16 and 17, 2010, in Denver, Colorado. After the parties advised that they had reached a settlement in principle, Decision No. R10-0128-I was issued on February 10, 2010, vacating the hearing.

3. Following extensive settlement negotiations in a meeting between Staff and Respondent, with their respective counsel present, and later continued rounds of 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 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).

4. The Parties also have taken into account the factors listed in 4 CCR 723-1-1302(b) in reaching this Agreement. Staff has been informed by Yellow that it has now received

¹ All of Yellow Cab's drivers have been and continue to be independent contractors. All references in this Stipulation and Settlement Agreement to "drivers" are intended to mean Respondent's independent contractor drivers.

is ongoing, Staff recognizes that DIA records, when combined with an enhanced review and cross checking process by the Company with the Company's internal records in the internal audit process described in Part II of Exhibit B, provides and will continue to provide information to the Company and to Staff that will result in better detection and correction of instances when drivers fail to follow the hours of service requirements of the Commission Rules. Staff also agrees that the suspension of \$115,000 of the penalty initially assessed is appropriate because requiring payment of the entire amount would result a significant loss of net income to Yellow Cab and such a loss could impair Yellow Cab's ability to continue to serve the public by using some or all of those funds to perform the enhanced review and cross-checking processes including those set forth in this Agreement.

Settlement Agreement

5. Staff and Respondent hereby stipulate and agree as follows:
- a. Respondent admits liability for all 60 violations in CPAN No. 91898.
 - b. In consideration of Respondent's admission of liability in subparagraph 5(a) above, and for the reasons expressed in paragraphs 3 and 4 above, and in consideration of the terms set forth below, Staff agrees to suspend \$115,000 of the proposed civil penalty of \$165,000.00, subject to the following conditions.
 - c. Respondent agrees to pay \$50,000.00 (which includes the 10% surcharge pursuant to § 24-34-108 CRS) in one payment to the Commission no later than ten (10) days after the effective date of a decision of the Commission approving this Agreement. Such payment shall be in certified funds, or if by check, the check cannot be returned for non-sufficient funds. If Respondent fails to pay \$50,000 to the Commission by the due date provided in the preceding sentence pursuant to those terms, then Respondent shall be immediately liable for the entire penalty amount of \$165,000.00, less any amount paid, and the additional terms set forth in subparagraphs 5(d) through 5(h) below shall not take effect. Yellow Cab agrees to provide Staff with a detailed plan of what it has done in the past and specific plans for the future to correct the type of hours of service violations cited in the CPAN. The plan shall include approximate dates when the components of the plan have been or will be implemented by Yellow Cab. That plan is provided as Exhibit B.
 - d. Yellow Cab must file a report with the Staff of the Commission every ninety calendar days for a period of 540 calendar days (approximately 18 months) The first ninety day period shall begin on the day after the Commission's final decision and shall run for a 90 day calendar day period. Staff stipulates that it will review and comment on each report. The information to be contained in each report and obligations of the Parties are more fully set forth in Exhibit C which is attached and incorporated. Failure to file any and all reports as set forth in Exhibit C by Yellow Cab will be considered waiver of the suspension of the \$115,000 and Respondent shall be immediately liable for the entire penalty amount of \$115,000.
 - e. Yellow Cab stipulates that its execution of this Agreement is to be considered a full and complete waiver of its rights to exceptions and to rehearing, reargument and reconsideration, and for judicial review pursuant to 4 CCR 723-1-1505, 1506, and 1507 and C.R.S. § 40-6-113, 40-6-114, and 40-6-115, except as set forth in Paragraph 5(h) and Paragraph 7 below.

- f. Staff agrees that it will, for a period of 540 days (approximately 18 months) from the effective date of a Commission decision approving the Agreement in this docket:
- i. Conduct periodic random hours of service audits and inspections in addition to the audits and inspections of the Company's books and records pursuant to the policies and procedures of the Transportation Unit of the Public Utilities Commission to determine possible hours of service violations by the Respondent and/or its drivers.
 - ii. Explain, work with and discuss with the Company, and not issue a civil penalty assessment notice to the Company for, any hours of service violations found by Staff during its random audits and inspections during the first 180 days of the 540 day period.
 - iii. Determine at its sole discretion whether to issue civil penalty assessment notices concerning any alleged hours of service violations and any other types of violations found during the 181st through the 540th day of such period; provided, however, that Staff agrees not to issue any civil penalty assessment notices for alleged violations that Respondent documents in its records as part of the reporting process set forth below, that it addressed before Staff found such alleged violation.
- g. Staff agrees that the intent and purpose of the reporting process by the Company and the review process by the Staff provided in subparagraphs 5(d) and (f) for the first 180 days of the 540-day period is to provide the Respondent with a grace period in which to monitor, implement and correct possible hours of service violations found on its own or by the Staff, without additional civil penalty assessment notices being issued by the Staff for alleged hours of service violations.
- h. If, during the 181st through the 540th days of such period, (1) Staff finds a total of seventy-five (75) or more alleged violations of 4 CCR 723-6-6103(d)(IV)(B)(ii) and 4 CCR 723-6-6102(a)² as it pertains to 49 CFR 395.5(a)(1), 49 CFR 395.5(a)(2), 49 CFR 395.8(a) that Respondent fails to demonstrate it addressed prior to Staff finding them, and (2) such violations result in one or more civil penalty assessments for seventy-five (75) violations of such hours of service regulations that Respondent did not address being issued to Respondent,³ and (3) at least seventy-five (75) of those alleged violations are found to be valid by either

² Amendments to the Commission's hours of service rules are pending in Docket No. 10R-036TR. Upon a final decision being issued in that docket, the corresponding amended hours of service rules shall apply to this Agreement.

³ Respondent reserves all of its rights to contest and appeal all alleged violations cited in any such civil penalty assessment notices.

a final decision of the Commission or admission by Respondent, in addition to any civil penalties owed for such violations, Respondent shall be liable to pay the \$115,000.00 balance of the civil penalty for CPAN No. 91898 suspended by this Agreement within 30 days after the effective date of such decision. If all three conditions in the foregoing sentence are not satisfied by the 540th day for such period, then the suspension of the \$115,000 balance of the civil penalty for CPAN No. 91898 shall be permanently waived on the 540th day after the effective date of a Commission decision approving this Agreement.

6. Staff is satisfied that the Respondent's payment of a reduced civil penalty of \$50,000.00, along with compliance with the terms set forth above, is sufficient to motivate the Respondent to remain compliant with the Public Utilities Laws and Commission Rules on a going-forward basis. The Parties recognize and agree that this settlement and stipulation is a unique method of binding both Parties to resolve a problem that they recognize affects the safety of the public using taxi services. The Parties recognize that the various steps and timeframes incorporated into this Agreement have not been previously attempted but have been carefully negotiated by the Parties as a means of achieving compliance in the future.

7. In the event that this Agreement is modified, or disapproved in whole or part, by the Commission in a manner that is unacceptable to either Party, each Party shall have the option to withdraw from this Agreement by providing notice within seven (7) days of entry of such Order to the other Party and to the Commission. In that event, the Parties agree that this matter shall be set for hearing.

8. WHEREFORE, Staff of the Public Utilities Commission and Colorado Cab Company, LLC respectfully request the Commission to enter an Order approving, without modification, this Stipulation and Settlement Agreement.

EXECUTED this 16th day of July, 2010.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

approved as to form:

JOHN W. SUTHERS, ATTORNEY GENERAL

By: 

Robert Laws
1560 Broadway, Suite 250
Denver, Colorado 80203

Senior Criminal Investigator
Colorado Public Utilities Commission

By: _____

Jean S. Watson-Weidner *21036
Assistant Attorney General
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jswww@state.co.us

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

*Counsel of Record

approved as to form:

8. WHEREFORE, Staff of the Public Utilities Commission and Colorado Cab Company, LLC respectfully request the Commission to enter an Order approving, without modification, this Stipulation and Settlement Agreement.

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COUNSEL FOR STAFF OF THE
PUBLIC UTILITIES COMMISSION

*Counsel of Record

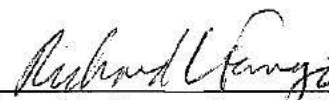
approved as to form:

COLORADO CAB COMPANY, DBA DUFFORD & BROWN, P.C.
DENVER YELLOW CAB

By: 

Brad Whittle

Title: President

By: 

Richard L. Fanyo, Esq., #7238

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COUNSEL FOR RESPONDENT,
COLORADO CAB COMPANY LLC, DBA
DENVER YELLOW CAB

CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR

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Public Utilities Commission of the State of Colorado

(Complainant)

v.

Colorado Cab Company LLC

(Respondent)

D/B/A

Denver Yellow Cab

PUC Authority Number(s): 2378&I

Physical Address: 7500 East 41st Avenue, Denver, CO 80216

Mailing Address: 7500 East 41st Avenue, Denver, CO 80216

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty	Penalty + 10% Surcharge	Penalty if Paid Within 10 Days	10 Day Penalty + 10% Surcharge
1	February 5, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
2	February 6, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
3	February 6, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
4	February 7, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
5	February 7, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
6	February 8, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
7	February 8, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
8	February 8, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
9	February 9, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00

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EXHIBIT

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A

Submitted to Colorado PUC E-Filings System

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10	February 9, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
11	February 9, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
12	February 10, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
13	February 10, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
14	February 10, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
15	February 11, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
16	February 11, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
17	February 11, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
18	February 12, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
19	February 12, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
20	February 12, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
21	February 13, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
22	February 13, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00

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23	February 13, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
24	February 14, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
25	February 14, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
26	February 14, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
27	February 15, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
28	February 15, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
29	February 15, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
30	February 16, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
31	February 16, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
32	February 16, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
33	February 17, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
34	February 17, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
35	February 17, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00

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36	February 18, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
37	February 18, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
38	February 18, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
39	February 19, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
40	February 19, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
41	February 20, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
42	February 20, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
43	February 21, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
44	February 21, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
45	February 22, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
46	February 22, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
47	February 23, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
48	February 23, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00

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49	February 24, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
50	February 24, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
51	February 24, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
52	February 25, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
53	February 25, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
54	February 26, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
55	February 26, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
56	February 27, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
57	February 27, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
58	February 28, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
59	February 28, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00
60	February 28, 2009	4 CCR 723-6-6103(d)(IV)(B)(ii)	Driver drove after being on duty more than 80 hours in 8 consecutive days.	Denver, CO	\$2,500.00	\$2,750.00	\$1,250.00	\$1,375.00

Total Amount: \$165,000.00

Total Amount if Paid Within 10 Days: \$82,500.00

THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION

**CIVIL PENALTY ASSESSMENT NOTICE
OR NOTICE OF COMPLAINT TO APPEAR**

Appendix A
Docket No. 09G-808CP
Decision No. R10-0899
Page 15 of 20

No. 91898 -CPAN

I HEREBY ACKNOWLEDGE RECEIPT OF THIS NOTICE

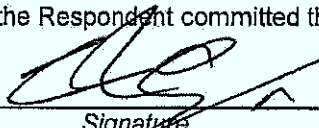

Respondents Signature

11/3/09
Date

The undersigned has probable cause to believe that the Respondent committed the violation(s) cited.

Z.P. OPEKA

Print Name


Signature

11/3/09
Date

(For Commission use only - completed upon affecting service). The undersigned affirms that a copy of this Civil Penalty Assessment Notice or Notice of Complaint to Appear was duly served upon the Respondent by:

☒ personal service; or

☐ certified mail, return receipt requested.

Z.P. OPEKA

Print Name


Signature

11/3/09
Date

THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION

CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR

No. 91898 -CPAN

The notice you have received is called a Civil Penalty Assessment Notice or Notice of Complaint to Appear. The penalty for the alleged violation(s) is described on the preceding page(s). It is the prescribed penalty for the stated violation(s) as required by law and specified in the Public Utilities Commission's rules, and may be an enhanced penalty pursuant to § 40-7-113(3) or (4), C.R.S. Pursuant to § 24-34-108, C.R.S., a surcharge in the amount of ten percent will be added to all penalty assessments collected. This surcharge will be used to fund the development, implementation and maintenance of a consumer outreach and education program. Your payment may be made by money order or check. Do not mail cash. If payment is made by mail, the date of payment is the postmarked date. You may pay this penalty by mail or in person at:

Public Utilities Commission, 1560 Broadway, Suite 250, Denver, CO 80202

You have four options regarding this civil penalty:

1. Within ten days of receipt of this Civil Penalty Assessment Notice, you may pay the reduced total amount shown in the "Total Amount If Paid Within 10 Days" section above, which the Public Utilities Commission will accept as payment in full, with surcharge, and as your acknowledgement that you are liable for the violations herein.

UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATIONS HEREIN.

Respondents Signature

2. Within ten days of receipt of this Civil Penalty Assessment Notice, you may pay the reduced total amount on certain violations, but contest the remaining violations, by providing the following:

UPON PAYMENT, I ACKNOWLEDGE LIABILITY ON THE FOLLOWING VIOLATION NUMBERS:

I AM REQUESTING A HEARING ON THE FOLLOWING CONTESTED VIOLATION NUMBERS:

Enclose payment of the reduced amount(s) shown in the "10 Day Penalty + 10% Surcharge" column for each acknowledged violation. The Public Utilities Commission will accept your payment as payment in full, with surcharge, and as your acknowledgement that you are liable for the violations for which payment is made.

Respondents Signature

3. After ten days of receipt of this Civil Penalty Assessment Notice, you may avoid a hearing in this matter, at any time prior to the hearing, if you pay the full total amount shown in the "Total Amount" section. The Public Utilities Commission will accept your payment as payment in full, with surcharge, and as your acknowledgement that you are liable for the violations herein.

UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATIONS HEREIN.

Respondents Signature

4. If you wish to contest the entire civil penalty, or if the civil penalty assessment is not paid within ten days of receipt of this notice, then you must contact the Public Utilities Commission by 4:00 p.m. of the 15th day after receipt of this notice to set the alleged violation(s) for hearing. Call the P.U.C. at 800/888-0170, ext. 2884, or 303/894-2884. If you fail to contact the Commission, this document becomes a Complaint to Appear Notice and the Commission will set the hearing date without any preference to your wishes. You will be notified about the hearing date. If you are under 18 years of age, you must be accompanied by a parent or a guardian at the hearing.

THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION

EXHIBIT B
TO STIPULATION AND SETTLEMENT AGREEMENT
IN DOCKET 09G-808CP
CORRECTIVE ACTION/ INTERNAL AUDIT PROCEDURES

PART I: Corrective Action Prior to CPAN Being Issued

Yellow Cab took corrective action during the nine-month period between the date of the violations in February 2009 and issuance of the CPAN in November 2009. These corrective actions include (1) that the independent contractor agreements with the three drivers of Yellow Cab whose actions were cited in the CPAN were terminated early in the summer of 2009; (2) that Yellow Cab also attempted during the period from February 2009 to November 2009 to obtain individualized AVI records of specific times of daily entry to and departure from Denver International Airport ("DIA") property for all of its drivers (in the form that Staff obtained and used as the basis for the CPAN) from DIA authorities in recognition that this information would provide specific hours of service data not otherwise available to Yellow Cab, but only received aggregate data from DIA until shortly after the CPAN was issued; and (3) that Yellow Cab realized on its own that its system of monitoring driver hours of service was incomplete without that data, which led to the Company's attempts to obtain it from DIA.

PART II: Hours of Service Internal Audit Procedures

Yellow Cab adopted the following Hours of Service Audit procedures shortly after the CPAN was issued.



Procedure: Hours of Service Internal Audit

Applies To: Colorado Cab Co. Operations

Guidelines

Purpose

The purpose of this procedure is to outline the required steps when conducting an internal Hours Of Service audit for a driver.

{00384669.1}



1.0 Responsibilities

It is the responsibility of both operations and the cage personnel to conduct Hours of Service (HOS) audits weekly.

- 1.1 Non-airport HOS Random Audit procedure
 - a) Randomly pull 5% of the driver trips sheet for the HOS Audit.
 - b) Using DDS, compare the drivers documented Hours of Service for the week to actual GPS information.
 - c) Using the Hours of Service calculator sheet, fill in actual Hours logged into the DDS system.
- 1.2 Airport HOS Audit
 - a) Denver Yellow Cab receives DIA Taxi activity reports, Operations Dept. is to audit daily airport HOS
 - b) Using the DIA AVI System, conduct daily and weekly audits on all Airport drivers.

2.0 Corrective Action

- 2.1 When an audit identifies that a driver has violated Hours of Service requirements the following steps apply.
 - a) Turn off the driver and conduct a Contract Review.
 - b) Fines up to \$2500 per incident.
 - c) Termination of Contract if driver continues to violate HOS requirements.

3.0 Record Keeping

- 3.1 File each audit results in the Operations Dept. HOS file for both the airport and the non-airport HOS audits.
- 3.2 Record either in the Contract Review Log or in DDS that a contract review was conducted with the driver when a violation has occurred.

EXHIBIT C

REPORTING PROCESS PURSUANT TO

STIPULATION AND AGREEMENT

IN DOCKET 09G-808CP

The first ninety day period shall begin on the day after the Commission's final decision and shall run for a 90 calendar day period. Before the first day of each ninety day period (or by the 10th day of the first ninety day period), Yellow Cab shall provide staff with an updated list of all independent contractor ("IC") drivers to include those drivers assigned to DIA. Each ninety day report is due no later than 30 calendar days after the date of the Staff's written request in person or by e-mail ¹ that provides Yellow Cab's General Manager (or his representative designated to Staff in writing) with the names of ten (10) Yellow Cab IC taxi drivers chosen by Staff based on a random selection from the list of all Yellow Cab IC taxi drivers. Staff's request shall designate the thirty day period of hours of service records during the last six months to be audited for each of those IC drivers. Staff must make a written request during the first 10 calendar days of each ninety day period.² Failure by Staff to make a request or a timely request will result in a random selection of ten IC drivers and the 30 day review period by Yellow Cab for the ninety day report, in which case the report will be due on the 45th day of the ninety day period. The report must include the following items:

- a. A copy of Staff's request providing the names of the ten IC drivers chosen by Staff.
- b. The name of each IC driver, the taxicab number assigned to that IC driver, if the IC driver is permanently assigned to a specific taxicab.

¹ If the last day of the 30 day period ends on a Saturday or Sunday or Commission holiday, the period shall be extended to the first business day of the Commission after that Saturday, Sunday or holiday.

² For example if the Commission decision is final on August 2, 2010, the 90 day period or quarter will start on August 03, 2010 and end on Sunday, November 01, 2010. Staff's written request must be received by Respondent no later than August 13, 2010 and Respondent's report would be due on September 12, 2010.

- c. A description of the hours of service audits performed by Yellow Cab on the Yellow Cab IC taxi drivers chosen by Staff.
- d. A copy of each driver's time records for the 30 day audit period selected.
- e. A list of days when no daily time records were provided by the IC driver, or were improperly recorded or calculated, during the 30 day audit period.
- f. A determination by Yellow Cab of each and every time the IC driver has driven after having been on duty 80 hours in any 8 day period, during the 30 day audit period.
- g. A determination by Yellow Cab of each and every time the IC driver has been on duty for over 16 hours in any given time period without 8 consecutive hours off duty separating each 16 hours on duty during the 30 day audit period.
- h. A determination by Yellow Cab of any other hours of service violations determined by the Company during the 30 day audit period.
- i. Any action taken by the Company with the IC driver found to be in violation of those hours of service regulations during the 30 day audit period.

Staff must review the Company's ninety-day reports, and confer with the Respondent's General Manager or his designated representative, at Yellow Cab's office or the Commission's office (whichever the Staff designates) or by telephone, no later than 20 days after the filing or receipt date.