

### **Stipulation and Settlement Agreement**

This Stipulation and Settlement Agreement is entered into by and between Trial Staff of the Commission (“Staff”) and Weber Wright Moving, Inc. d/b/a Weber Wright Moving Company & Fisher Piano Movers (“Respondent”) as a result of Docket No. 11G-796HHG in which the Respondent was cited in a civil penalty notice assessment for alleged violations of C.R.S. § 40-10.1-502. Respondent acknowledges and agrees that it chose to be represented by its owner, Michael Bram, pursuant to Commission Rule 1201(b).

1. This Respondent admits liability to violation of C.R.S. § 40-10.1-502 as found in CPAN No. 99721, which is attached as Exhibit 2.
2. This Agreement has been reached in consideration of Respondent’s admission of liability in Paragraph 1, above, and in the spirit of compromise and in light of the uncertainties of trial, and to avoid the costly expense of litigation. The Parties also agree that this Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to a full hearing on this matter, as well as in consideration of the amount of monies that would have been spent by either party on attorney’s fees and costs.
3. For these reasons and the reasons set out in Paragraph 5 below, the Parties have agreed to the following terms and conditions:
  - a. The amount of the civil penalty is reduced from \$2,420.00 to \$1,500.00. These amounts include the 10% surcharge pursuant to C.R.S. § 24-34-108, which will be used to fund the development, implementation and maintenance of a consumer outreach.
  - b. The Respondent agrees to pay \$1,500.00 in three monthly installments of \$500.00 each, with the first payment due on or before ten (10) days of the Commission final decision<sup>1</sup>, with the remaining two payments due every thirty (30) days thereafter until paid in full.
  - c. The Respondent recognizes that failure to comply with the payment plan established herein and to complete all obligations as set forth in this stipulation and

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<sup>1</sup> For purposes of this Agreement, a final Commission decision shall mean the date when the Recommended Decision of the ALJ approving or modifying this Stipulation and Agreement becomes a decision of the Commission.

settlement agreement will result in the full CPAN amount of \$2,420.00 being due and payable immediately, less any payments, if any, made to that point, without any further hearing or administrative or adjudicatory process.

d. Respondent agrees and stipulates that failure to pay each and every settlement payment amount in the amount set forth above, or in full, shall also be deemed as a waiver by Respondent of any and all rights to file exceptions and/or to all rights to file a request for rehearing, reargument and reconsideration or any other form of appeal. This result will mean that no additional administrative or adjudicatory time and expense be incurred by the Commission, Staff and/or the Respondent.

e. Respondent further agrees that if during any investigations conducted by the Staff of the Commission within two years of the date of a Commission final order in this docket, should any violations for any of the Counts in which the Respondent has admitted liability be found, Respondent shall be liable for the full amount pertaining to this docket of \$2,420.00, less any payments made in accordance with subparagraph 3.b above. In the event such occurs, such payment will be due immediately.

f. Respondent further agrees that if during any investigations conducted by the Staff of the Commission within two years of the date of a Commission final order in this docket, should any violations of C.R.S. § 40-10.1-502(1)(a)<sup>2</sup> be found, then Respondent hereby consents and stipulates to the entry by a court of law of a permanent injunction enjoining Respondent from operating, offering to operate, or advertising as a household goods mover under Title 40, Article 10.1, Part 5. Respondent agrees that upon the effective date of a final Commission Decision finding that Respondent violated C.R.S. § 40-10.1-502(1)(a), the Commission may file a complaint for injunctive relief in El Paso District Court. Respondent further agrees that it will not challenge the filing of the complaint or the entry of an order for injunction and the Commission may present this Stipulation as conclusive evidence that Respondent has consented to the entry of the injunction as set forth herein.

g. Respondent and Staff agree that the specific intent of paragraph 3 is to prevent further violations of Commission rules.

4. For purposes of determining whether a violation occurred within the applicable timeframe, the operative date discussed in subparagraphs 3.e and 3.f is the date of the alleged violation and not the date the action is initiated by the Commission.

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<sup>2</sup> Respondent previously admitted liability via Stipulation filed in Docket No. 10G-212HHG for operating as a household goods mover without a permit from the Commission. In light of Respondent's admissions of liability in paragraph 1 above and the admissions of liability in the previous docket, Respondent has agreed that subparagraph 3.f is activated if any violation of C.R.S. § 40-10.1-502(1)(a) occurs. Respondent shall not operate, offer to operate, or advertise as a mover without a permit from the Commission.

5. In addition to the reasons expressed in paragraphs 1 through 3 above, Staff and Respondent have agreed to the following stipulation of facts to be considered by the ALJ for consideration of approval of this agreement pursuant to Commission Rule 1302 (b):
  - a. The violations admitted to by the Respondent occurred after an investigation by Staff of the Commission, to determine if Respondent was operating as a household goods mover without an appropriate permit from the Commission. The investigation was conducted by Commission Investigator Cliff Hinson as part of his regular duties as a criminal investigator for the Colorado Public Utilities Commission.
  - b. The Respondent has admitted to the maximum level of culpability for the violations.
  - c. The Respondent immediately began corrective action. The Respondent ceased all household goods moving operations upon issuance of the CPAN. In addition, shortly after notice of the Commission Rules, the Respondent filed a registration application, paid for the application, obtained the appropriate insurance coverage and provided proof of that insurance as required by the Commission's rules, was issued household goods mover Permit No. HHG-00297 and has fully cooperated with Staff in resolution of this matter. Both Staff and Respondent consider these facts to be a good faith showing of an attempt to be in compliance with Commission Rules as well as a fact indicating the Respondent's intent to prevent similar violations.
  - d. The Parties also stipulate to the fact that the Respondent, Weber Wright Moving, Inc. d/b/a Weber Wright Moving Company & Fisher Piano Movers is a closely held entity, owned and operated by Mr. Michael Bram as President and agent for service of process. Both parties also stipulate that Weber Wright Moving, Inc. d/b/a Weber Wright Moving Company & Fisher Piano Movers is a very small business, with only two moving vehicles being operational at any one time. Both Parties stipulate that the settlement amount of penalty will cause a substantial loss of the revenues which will assist in preventing future violations of the Commission rules. Both Parties stipulate that the imposition of the full penalty amount for all violations incurred by Weber Wright Moving, Inc. d/b/a Weber Wright Moving Company & Fisher Piano Movers would result in a significant loss of the businesses' net income to Mr. Bram. It is the position of both parties that such a loss would greatly impact the Company's ability to remain in business, as a result of its current financial situation.
6. The Parties agree that all matters that were raised or could have been raised in this docket relating to the issues specifically identified and addressed herein have been resolved by the Stipulation and Agreement. This Stipulation and Agreement may be executed in counterparts, each of which when taken together shall constitute the

entire Agreement of the Parties, and no further modification of this Agreement is allowed, except in writing by the parties, and further agreed to in a further order issued by the Public Utilities Commission.

7. In the event that this Agreement is modified or not approved in its entirety in a manner that is unacceptable to either Staff or Respondent, at that Party's option, may withdraw from this Agreement by providing notice within seven (7) days of entry of the Order to the other Party and to the Commission. In that event, the Parties agree that this matter shall be set for hearing.

EXECUTED this 22<sup>nd</sup> day of November 2011.

STAFF OF THE COLORADO  
PUBLIC UTILITIES COMMISSION  
GENERAL

*Approved as to form:*

JOHN W. SUTHERS, ATTORNEY

By: \_\_\_\_\_



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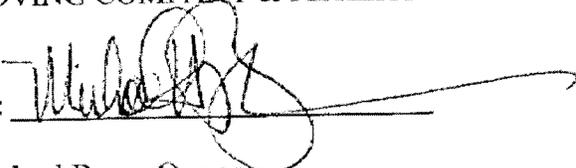
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MOVING COMPANY & FISHER PIANO MOVERS

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