

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF  
COLORADO

Docket No. 13G-0080TO  
Civil Penalty Assessment Notice No. 105513

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PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

NICOLE TAYLOR, DOING BUSINESS AS ABSOLUTE TOWING,

Respondent.

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**STIPULATION AND SETTLEMENT AGREEMENT**

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Staff of the Public Utilities Commission (Staff) and Nicole Taylor, d/b/a Absolute Towing (Respondent) (collectively the "Parties") enter into this Stipulation and Settlement Agreement (Agreement) in the above-referenced Docket as a complete and final resolution of all issues that were or could have been raised in this proceeding.

**Background**

On February 1, 2013, the Commission issued Respondent Civil Penalty Assessment Notice No. 105513 (the "CPAN") seeking civil penalties of \$605.00<sup>1</sup> (or \$302.50 if paid within 10 days). The CPAN alleged two violations. Count 1 alleged a violation of 4 *Code of Colorado Regulations* (CCR) 723-6-6509(a)(IV). Count 2 alleged a violation of 4 *Code of Colorado Regulations* (CCR) 723-6-6509(a)(V). A

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<sup>1</sup>This amount includes the 10% surcharge pursuant to C.R.S. § 24-34-108. The breakout of this amount is a penalty amount of \$550.00 and a 10% surcharge of \$55.00.

brief explanation of each violation is set forth in the CPAN in the "Nature of Violation" column.

Shortly thereafter, the matter was assigned Docket No. 13G-0080TO. Staff forwarded a request for counsel to the Colorado Attorney General's office and the undersigned Senior Assistant Attorney General entered his appearance on behalf of Staff on March 11, 2013. Subsequently, Staff and Respondent entered into settlement discussions and reached a settlement in principle of all issues that were or could have been raised in this proceeding. By Decision No. R13-0408-I, the Honorable Mana L. Jennings-Fader scheduled a hearing in this matter for May 15, 2013 and established certain filing requirements, but also indicated that such filing requirements would be void if the Parties filed a settlement agreement no later than April 19, 2013. A short extension of time was granted on April 19, 2013. This Agreement is being filed as anticipated.

### **Settlement Agreement**

Staff and Respondent hereby stipulate and agree as follows:

1. The person signing this Agreement below on behalf of Respondent represents that she is the sole proprietor that has conducted business under the trade name Absolute Towing and is authorized to execute this Agreement on behalf of Respondent and by doing so intends to and does fully bind Respondent to the terms of the Agreement
2. Respondent acknowledges timely receipt of all relevant notices, pleadings and orders in this proceeding.
3. Respondent admits liability to all violations in the CPAN.

4. Respondent agrees to immediately cure all identified defects and come into and remain in compliance with all applicable statutes and regulations.<sup>2</sup>

5. Staff and Respondent agree to a negotiated settlement amount of \$365.00. This amount includes the 10% surcharge pursuant to C.R.S. § 24-34-108. The breakout of this amount is a penalty of \$331.82 and a 10% surcharge of \$33.18. Respondent agrees to make payment of the negotiated settlement amount of \$365.00 within fifteen (15) days after the Commission's approval of this Agreement becomes final. For purposes of this Agreement, a final Commission decision shall mean the date when the Recommended Decision of the Administrative Law Judge approving or modifying this Agreement becomes a decision of the Commission. Payment may be made in person by money order, credit card, cash or check. Payment may be made through the mail by money order or check. If payment is made by mail, the date of payment is the postmarked date.

6. Respondent agrees that failure to timely pay the settlement amount as provided herein will result in Respondent being liable for the full civil penalty amount of \$605.00, without any further notice, hearing or administrative or adjudicatory process. In the event Respondent fails to make the payment in the timeframe specified herein, the full civil penalty amount of \$605.00 shall be immediately due and payable.

7. 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

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<sup>2</sup> As of this date, Nicole Taylor has ceased operations in Colorado and has sold her towing vehicles to another towing company,

administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter. The Parties submit the public interest is served by assessing Respondent a reduced civil penalty of \$365.00 under the terms herein. In reducing the penalty, the Parties considered the following mitigating factors pursuant to Commission Rule 1302(b):

- a. Respondent acknowledges wrongdoing.
- b. Respondent admits the maximum level of culpability for all the violations in the CPAN.
- c. This is the first time Respondent was issued a CPAN for the violations therein.
- d. Respondent fully cooperated with Staff in resolving this matter without the need for a litigated evidentiary proceeding.
- e. Assessing Respondent a civil penalty of \$365.00 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.
- f. As of this date, Respondent has ceased operations in Colorado.

8. In consideration of Respondent's admission of liability in paragraph 3 and agreement in paragraph 4, and for the reasons expressed in paragraph 7, Staff agrees reducing the amount of the civil penalty to \$365.00 is appropriate and in the public interest.

9. Respondent agrees and stipulates that failure to complete its payment obligations as set forth in this Agreement shall also be deemed a waiver by Respondent of any and all rights to file exceptions and/or a request for rehearing, reargument, and reconsideration or any other form of appeal. This result will mean

neither the Commission nor Staff will incur additional time and expense to prosecute the full civil penalty.

10. The Parties agree 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 this Agreement. This 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 an order issued by the Commission.

11. In the event that this Agreement is modified or not approved in its entirety, either Party, 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 Agreement shall be void and this matter shall be set for hearing.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXECUTED this 22<sup>nd</sup> day of April 2013.

*approved as to form:*

STAFF OF THE COLORADO  
PUBLIC UTILITIES COMMISSION

JOHN W. SUTHERS,  
ATTORNEY GENERAL

By:   
Cliff Hinson  
Manager, Investigations &  
Compliance  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, Colorado 80202  
Telephone (303) 894-2904

By:   
David M. Nocera, 28776\*  
Senior Assistant Attorney General  
Revenue and Utilities Section  
1300 Broadway, 8<sup>th</sup> Floor  
Denver, Colorado 80203  
Telephone: (720) 508-6333  
Dave.nocera@state.co.us

COUNSEL FOR STAFF OF THE  
PUBLIC UTILITIES COMMISSION

\*Counsel of Record

NICOLE TAYLOR, d/b/a  
ABSOLUTE TOWING,

By: \_\_\_\_\_  
Nicole Taylor  
307 Prairie Road Suite 101  
Colorado Springs CO 80909



EXECUTED this 22<sup>ND</sup> day of April 2013.

*approved as to form:*

STAFF OF THE COLORADO  
PUBLIC UTILITIES COMMISSION

JOHN W. SUTHERS,  
ATTORNEY GENERAL

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Telephone: (720) 508-6333  
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**COUNSEL FOR STAFF OF THE  
PUBLIC UTILITIES COMMISSION**

\*Counsel of Record

NICOLE TAYLOR, d/b/a  
ABSOLUTE TOWING,

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

Nicole Taylor  
807 Prairie Road Suite 101  
Colorado Springs CO 80909

CERTIFICATE OF SERVICE

This is to certify that on this 22<sup>nd</sup> day of April, 2013, I have duly served the within **STIPULATION AND SETTLEMENT AGREEMENT** upon all parties herein via the Commission's E-Filing system to:

|                |                                     |                |
|----------------|-------------------------------------|----------------|
| Cliff Hinson   | <u>Cliff.Hinson@state.co.us</u>     | Trial Staff    |
| Tony Cummings  | <u>Anthony.Cummings@state.co.us</u> | Trial Staff    |
| Vanessa Condra | <u>Vanessa.Condra@state.co.us</u>   | Advisory Staff |

Placed in the United States mail, first class postage prepaid and addressed as follows

to:

Nicole Taylor  
Absolute Towing  
P O Box 9134  
Colorado Springs CO 80932

Nicole Taylor  
Absolute Towing  
307 Prairie Road Suite 101  
Colorado Springs CO 80909

\_\_\_\_\_/s/ Sabrina A. Pope\_\_\_\_\_

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