

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Docket No. 13G-0910EC

Civil Penalty Assessment Notice No. 107235

STIPULATION AND SETTLEMENT AGREEMENT

COLORADO PUBLIC UTILITIES COMMISSION,

Complainant,

v.

Teasers Limousine LLC, DBA On Demand Transportation and/or Limousines Etc.,

Respondent.

Staff of the Public Utilities Commission (Staff) and Teasers Limousine LLC DBA On Demand Transportation and/or Limousines Etc. (Respondent) (collectively Parties) enter into this Stipulation and Settlement Agreement (Agreement) in the above-referenced proceeding as a complete and final resolution of all issues that were or could have been raised in this proceeding.

Background

On August 13, 2013, the Commission issued Respondent a Civil Penalty Assessment Notice No. 107235 (the CPAN) seeking civil penalties of \$4,400.00 (or \$2,200.00 if paid within 10 days). The CPAN alleged the following six violations: 1) four violations of 4 CCR 723-6-6102(a)(I) and 49 CFR 395.1(e) (1)(B)(v) for failure to maintain accurate and true time records for drivers Pavol Berrsford, Thomas Herrera,

James Simmons, and Maria Avalos 2) one violation of 4 CCR 723-6-6103(d)(II)(C) for failure to maintain accurate and true time records for one driver Dewayne Williams, and 3) one violation of 4 CCR 723-6-6201(a)(I) and 49 CFR 390.35 for making a fraudulent or intentionally false entry on any application certificate report or record driver Dwayne Williams – DVIR.

Settlement Agreement

Staff and Respondent hereby stipulate and agree as follows:

1. Respondent admits liability for the violations set forth in the CPAN.
2. Respondent agrees to immediately cease and desist from the actions that led to the violations set forth on the CPAN.
3. 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. The Parties submit that the public interest is served by assessing Respondent a reduced civil penalty of \$750.00 *for the only remaining violation* under the terms herein. In reducing the penalty, the Parties considered the following mitigating factors pursuant to Commission Rule 1302(b):
 - Respondent admits the maximum level of culpability for all the violations set forth in the CPAN.
 - Respondent asserts that it is determined to be in compliance with all relevant PUC rules.
 - Respondent did pay for five of the six violations on the CPAN within the ten day period and has admitted liability for the sixth violation,

but was unable to pay the one-half amount due in 10 days for this violation because did not have the funds to pay the one-half amount due in total before the ten day period ended.

- Respondent terminated the employee driver named in violations 2) and 3) above.
- Respondent also sold a vehicle that was found to have maintenance issues during the Safety and Compliance Review that resulted in CPAN 107235
- The Respondent fully cooperated with Staff in resolving this matter without the need for a litigated evidentiary proceeding.
- Respondent has corrected the drug and alcohol issues that were noted as violations on the associated the Safety and Compliance Review Final Report that resulted in CPAN 107235 within the 30 day follow up period as required.
- Assessing Respondent a civil penalty of \$750.00 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.

1. In consideration of Respondent's admission of liability in paragraph 1 and agreement in paragraph 2, and for the reasons expressed in paragraph 3, Staff agrees that reducing the amount of the civil penalty from \$2750.00 to \$750.00 is appropriate and in the public interest.

2. The \$750.00 settlement amount includes a 10% surcharge pursuant to § 24-34-108, C.R.S. and the breakout is as follows: \$682.00 is the civil penalty and \$68.00 is the 10% surcharge.

3. Respondent agrees to pay the reduced penalty of \$750.00 in one payment within ten (10) days after 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.

4. Respondent agrees that the failure to timely pay the settlement amount as provided herein will result in Respondent being liable for the full civil penalty less payments made without any further hearing or administrative or adjudicatory process.

5. Respondent agrees and stipulates that the failure to complete the one payment obligation 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.

6. 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.

7. 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 30 day of September 2013.

Approved as to form only :

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

JOHN W. SUTHERS,
ATTORNEY GENERAL

By: 

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10-2-13

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