

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Proceeding No. 13G-1020EC
Civil Penalty Assessment Notice No. 107423

STIPULATION AND SETTLEMENT AGREEMENT

COLORADO PUBLIC UTILITIES COMMISSION,

Complainant,

v.

CHAJARI LLC D/B/A ATLAS EXPRESS SHUTTLE,

Respondent.

Staff of the Public Utilities Commission ("Staff") and Chajari LLC d/b/a Atlas Express Shuttle ("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 September 3, 2013, the Commission issued Respondent a Civil Penalty Assessment Notice No. 107423 ("the CPAN") seeking civil penalties of \$3,0250.00 (or \$1,512.50 if paid within 10 days). The CPAN alleged the following two violations: 1) one violation of 49 CFR §369.17(c), for failing to have evidence of a periodic inspection on a vehicle; and 2) one violation of 49 CFR §391.11(a), for requiring or permitting a driver who is not qualified to drive under 49 CFR §391.11(b)(4).

Settlement Agreement

Staff and Respondent hereby stipulate and agree as follows:

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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 in 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 \$850.00 under the terms herein. In reducing the penalty, the Parties considered the following mitigating factors pursuant to Commission Rule 1302(b):
 - a. At the time of the violations indicated in the CPAN, Respondent was an unrated carrier.
 - b. Staff carried out a follow-up Safety and Compliance Review on September 25, 2013 and did not find the violations that it cited for in the CPAN.
 - c. During the follow-up Safety and Compliance Review, all drivers had active Department of Transportation ("DOT") medical cards and all vehicles contained evidence of annual inspections.
 - d. Early in the investigation, Respondent admitted liability for the violations indicated in the CPAN.
 - e. After the CPAN was issued, Respondent was proactive in correcting the violations.
 - f. After the CPAN was issued, Respondent was proactive in attempting to resolve the complaint by contacting Staff.
4. 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 \$3,025.00 to \$850.00 is appropriate and in the public interest.

5. The \$850.00 settlement amount includes a 10% surcharge pursuant to § 24-34-108, C.R.S. and the breakout is as follows: \$772.73 is the civil penalty and \$77.27 is the 10% surcharge.

6. Respondent agrees to pay the reduced penalty of \$850.00 within ten (10) calendar 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.

7. Respondent further agrees that if, during any investigation(s) conducted by Staff within twelve months of the date of a Commission final order in this Proceeding, Staff finds any violations of the same rules or statutes or of a similar nature as any of the violations for which the Respondent has admitted liability, Respondent shall be liable for the full civil penalty, less payments made. In this event, the remaining full civil penalty will be due immediately. Respondent and Staff agree that the specific intent of this provision is to prevent further violations of the Public Utilities Laws and Commission Rules.

8. Respondent agrees that the failure to timely pay the \$850.00 payment 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.

9. Respondent agrees and stipulates that the 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.

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EXECUTED this _____ day of October 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
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By: _____
Paul J. Kyed, #37814*
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EXECUTED this _____ day of October 2013.

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STAFF OF THE COLORADO
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JOHN W. SUTHERS,
ATTORNEY GENERAL

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EXECUTED this 16th day of October 2013.

Approved as to form:

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION


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ATTORNEY GENERAL

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