

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF
COLORADO

Proceeding No. 13G-0864EC
Civil Penalty Assessment Notice No. 107174

Proceeding No. 13G-0954EC
Civil Penalty Assessment Notice No. 107361

Proceeding No. 13G-0960EC
Civil Penalty Assessment Notice No. 107457

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,
Complainant,

v.

COLORADO LIMOUSINE SERVICES LLC,

Respondent.

STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission ("Staff") and Colorado Limousine Services LLC ("Respondent") (collectively "Parties") enter into this Stipulation and Settlement Agreement ("Agreement") in the above-referenced consolidated proceedings as a complete and final resolution of all issues that were or could have been raised these consolidated proceedings.

Background

On July 13, 2013, the Commission issued Respondent Civil Penalty Assessment Notice No. 107174 ("the first CPAN") seeking civil penalties of \$2,035.00 (or \$1,017.50 if paid within 10 calendar days). The first CPAN alleged the following three violations: 1) one violation of 4 CCR 723-6-6102(a)(I), which incorporates 49 CFR §396.17(a), for using a commercial vehicle

not periodically inspected; 2) one violation of 4 CCR 723-6-6102(a)(I) , which incorporates 49 CFR §396.3(b), for failure to keep minimum records of inspection and vehicle maintenance; and 3) one violation of 4 CCR 723-6-6102(a)(I) , which incorporates 49 CFR §391.53(a), for failure to keep and maintain a driver investigative history file. Proceeding No. 13G-0864EC addressed the first CPAN.

On August 19, 2013, the Commission issued Respondent Civil Penalty Assessment Notice No. 107361 ("the second CPAN") seeking civil penalties of \$1,100.00 (or \$550.00 if paid within 10 calendar days). The second CPAN alleged the following violation: 1) one violation of 4 CCR 723-6-6309(c) for failure to produce a valid and complete charter order. Proceeding No. 13G-00954EC addressed the second CPAN.

On September 4, 2013, the Commission issued Respondent Civil Penalty Assessment Notice No. 107457 ("the third CPAN") seeking civil penalties of \$2,420.00 (or \$1,210.00 if paid within 10 calendar days). The third CPAN alleged the following violation: 1) one violation of 4 CCR 723-6-6102(a)(I) , which incorporates 49 CFR 396.17(a), for using a commercial vehicle not periodically inspected. Proceeding No. 13G-00960EC addressed the third CPAN.

On October 7, 2013 the administrative law judge issued Interim Decision No. 13-1257-I, which combined the three CPANs into one consolidated proceeding. Collectively, the first, second, and third CPANs seek total civil penalties of \$5,555.00 (or \$2,777.50 if paid within 10 days).

Settlement Agreement

Staff and Respondent hereby stipulate and agree as follows:

1. Respondent admits liability for the violations set forth in the first, second, and third CPANs.

2. Respondent agrees to immediately cease and desist from the actions that led to the violations set forth in the first, second, and third CPANs.

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 \$3,600.00 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 and apologizes to the Commission for the violations.
- b. Respondent admits the maximum level of culpability for the violations set forth in the first, second, and third CPANs.
- c. Respondent asserts that it is determined to be in compliance with all relevant PUC rules.
- d. Respondent fully cooperated with Staff in resolving this matter without the need for a litigated evidentiary proceeding.
- e. Assessing a civil penalty of \$3,600.00 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.

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 \$5,555.00 to \$3,600.00 is appropriate and in the public interest.

5. The \$3,600.00 settlement amount includes a 10% surcharge pursuant to § 24-34-108, C.R.S., and the breakout is as follows: \$3,272.73 is the civil penalty and \$327.27 is the 10% surcharge.

6. Respondent agrees to pay the reduced penalty of \$3,600.00 in six payments of \$600.00 each. Each individual \$600.00 payment includes $1/6^{\text{th}}$ of the total 10% surcharge pursuant to § 24-34-108, C.R.S., and the breakout is as follows: \$545.45 is $1/6^{\text{th}}$ of the \$3,272.73 total civil penalty and \$54.55 is $1/6^{\text{th}}$ of the \$327.27 total 10% surcharge. The first \$600.00 payment shall be due within ten (10) calendar days after this Agreement becomes final pursuant to a final Commission decision. The second \$600.00 payment shall be due within forty (40) calendar days after this Agreement becomes final pursuant to a final Commission decision. The third \$600.00 payment shall be due within seventy (70) calendar days after this Agreement becomes final pursuant to a final Commission decision. The fourth \$600.00 payment shall be due within one hundred (100) calendar days after this Agreement becomes final pursuant to a final Commission decision. The fifth \$600.00 payment shall be due within one hundred thirty (130) calendar days after this Agreement becomes final pursuant to a final Commission decision. The sixth \$600.00 payment shall be due within one hundred sixty (160) calendar days after this Agreement becomes final pursuant to a final Commission decision. 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 any of the six \$600.00 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 consolidated proceeding 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 13th day of November 2013.

Approved as to form:

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

JOHN W. SUTHERS,
ATTORNEY GENERAL

By: _____
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11/07/2013

R/K

EXECUTED this 13th day of November 2013.

Approved as to form:

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

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ATTORNEY GENERAL

By: 

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