

Decision No. C14-0829

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13G-1313TO

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

ADAM JERROD KASTNING, DOING BUSINESS AS, A PERSONAL TOUCH RECOVERY,

RESPONDENT.

**COMMISSION DECISION GRANTING JOINT
MOTION AND APPROVING SETTLEMENT**

Mailed Date: July 16, 2014

Adopted Date: July 9, 2014

I. BY THE COMMISSION

A. Statement

1. Pursuant to Decision No. C14-0667, issued on June 18, 2014, Staff of the Public Utilities Commission (Staff), filed a Joint Motion to Approve Stipulation and Settlement Agreement and Waive Response Time (Joint Motion) and Stipulation and Settlement Agreement (Settlement Agreement), on behalf of itself and Adam Jerrod Kastning, doing business as A Personal Touch Recovery. By this Decision we grant the Joint Motion and approve the Settlement Agreement. The civil penalty amount is reduced and a payment of \$750 is accepted as full payment of Civil Penalty Assessment Notice (CPAN) No. 108176; Staff is directed to refund \$460 of the \$1,210 civil penalty assessment amount paid by Mr. Kastning on February 18, 2014, consistent with the terms of the Settlement Agreement and the Joint Motion.

B. Background, Findings, and Conclusions

2. Respondent, Adam Jerrod Kastning, doing business as A Personal Touch Recovery, was issued CPAN No. 108176 in December of 2013, alleging operation as a towing carrier without first obtaining a permit, in violation of § 40-10.1-401(1)(a), C.R.S., with a civil penalty assessment that totaled \$1,210. On February 18, 2014, Respondent paid the civil penalty assessment in full, and by Decision No. R14-0210, issued February 25, 2014, the assigned Administrative Law Judge (ALJ) accepted payment in full and vacated the hearing.¹

3. Staff filed exceptions March 17, 2014, requesting the Commission amend the Recommended Decision to impose a lesser civil penalty of \$750 and order Staff to refund Respondent \$460. By Decision No. C14-0667, the Commission permitted Staff until July 2, 2014, to file a Settlement Agreement for Commission consideration.

4. Consistent with Decision No. C14-0667, on July 2, 2014, Staff filed the Settlement Agreement and the Joint Motion. In the Settlement Agreement, Staff and Mr. Kastning agree to a reduced penalty of \$750. This reduced penalty was agreed to due to Staff's consideration of mitigating factors pursuant to Rule 1302(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1. The mitigating factors considered include, without limitation: (a) Respondent acknowledges wrongdoing; (b) Respondent admits to the maximum level of culpability; (c) Respondent actively and timely contacted Staff to resolve the issue; and (d) Respondent had active insurance at the time of the event described in the CPAN. In the Joint Motion, Staff and Mr. Kastning request the Commission approve the Settlement Agreement and waive response time.

¹ As stated in Decision No. C14-0667, Staff emailed the ALJ indicating that settlement was reached between Staff and the Respondent; however, no formal settlement was filed at that time.

5. We include the Settlement Agreement and the Joint Motion in the record as information secured by the Commission on its own initiative pursuant to Decision No. C14-0667, and consider these filings in rendering our decision consistent with § 40-6-113(6), C.R.S. In addition, because these filings are made jointly by the parties, we consider this matter uncontested and find no need for further formal hearings.² While consideration of settlement on exceptions is rare, we agree with the parties that the Settlement Agreement in this instance promotes administrative efficiency and is in the public interest. We therefore grant the Joint Motion and approve the Settlement Agreement, without modification.

II. ORDER

A. The Commission Orders That:

1. The Joint Motion to Approve Stipulation and Settlement Agreement and Waive Response Time filed July 2, 2014, by Staff of the Commission (Staff) on behalf of itself and Respondent, Adam Jerrod Kastning, doing business as A Personal Touch Recovery, is granted.

2. The Stipulation and Settlement Agreement filed July 2, 2014, is approved.

3. The civil penalty amount for Civil Penalty Assessment Notice No. 108176 is reduced and \$750 is accepted as full payment of the same; Staff is directed to refund Respondent \$460 of the civil penalty assessment paid by Mr. Kastning, consistent with the discussion above.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

² See, § 40-6-109(5), C.R.S.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 9, 2014.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners