

BEFORE THE PUBLIC UTILITIES COMMISSION

STATE OF COLORADO

Docket No. 03G-359BP

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PUBLIC UTILITIES COMM.

2003 SEP 26 AM 8:33

Attachment  
Docket No. 03G-359BP  
Decision No. R03-1196  
October 23, 2003  
Page 1 of 7

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STIPULATION OF SETTLEMENT OF CIVIL PENALTY ASSESSMENT NO. 28194-CPAN AND MOTION TO CLOSE DOCKET NO. 03G-359BP.

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PUBLIC UTILITIES COMMISSION,

Complainant,

v.

Fred Nnanna DBA American Transit Express

Respondent.

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WJF

Trial Staff of the Commission ("Staff") and American Transit Express ("Respondent") enter into this Stipulation and request that the Commission issue an order approving its terms as a complete resolution of all issues in this docket. In support of the Stipulation, Staff and Respondent state as follows:

1. On August 14, 2003, Civil Penalty Assessment Notice No. 28194-CPAN ("CPAN") was issued to Respondent by Commission Investigator Ted M. Barrett. Mr. Barrett issued the CPAN as the result of the periodic safety and compliance audit he performed. A copy of the CPAN is attached as Appendix A, and by reference incorporated herein.

2. In the CPAN, Respondent was charged with two violations of 4 CCR 723-15; Part 391.51(a) (failed to maintain a driver qualification file) and two violations of 4 CCR 723-15; Part 395.8(a) (failed to require driver to prepare a record of duty status).

3. Section 40-7-113(1)(f), C.R.S., and Rule 12.5 of 4 CCR 723-15, allows for a penalty of up to \$200.00 per violation. Staff sought maximum penalties in this case. The total amount of the CPAN is \$800.00.

4. For the purpose of resolving all issues in this docket, Staff and Respondent now desire to compromise and settle the charges contained in the CPAN. STAFF AND RESPONDENT HEREBY STIPULATE AND AGREE AS FOLLOWS:

a. Respondent admits to all violations as contained in Civil Penalty Assessment No. 28194-CPAN.

b. Respondent agrees to take measures to ensure that the company and its drivers are maintaining the required records reflecting their activities. Further, Respondent understands that it will be subject to future safety audits to ensure compliance, and the results of that audit may result in monetary assessments for continued non-compliance.

c. In consideration of Respondent's admissions in subparagraph (4)(a), above, and Respondent's cooperation detailed in paragraph (4)(b) above, Staff agrees to reduce the amount of the penalty from \$800.00 to \$400.00.

d. **Payment.** Respondent agrees to pay to the Public Utilities Commission the amount of \$400.00 as payment in full of 28194-CPAN. Payment is to be made in two (2) monthly installments of \$200.00 per month with the first payment due **within ten days** after the issuance of a final decision of the Commission approving this Stipulation, and every month thereafter until paid in full. PROVIDED, HOWEVER, that if the Respondent does not make the payment as agreed to herein, then (1) the Respondent's admissions in subparagraph (4)(a), above, shall constitute conclusive evidence that the violations occurred and that the fines therefor are justified, and (2) the Respondent shall be immediately liable for the full amount of the penalty, \$800.00, less any payments made to that point.

5. In the event that this Stipulation is modified or not approved in its entirety, either Staff or Respondent, at that party's option, may withdraw from this Stipulation. In that event, Docket No. 03G-359BP shall be set for hearing.

6. The Staff of the Colorado Public Utilities Commission and Respondent request that the presiding Administrative Law Judge accept this Stipulation in settlement of 28194-CPAN, issue an Order consistent with this Stipulation and its provisions, and close Docket No. 03G-359BP.

Dated this 25<sup>th</sup> day of September, 2003.



**CIVIL PENALTY ASSESSMENT NOTICE  
 OR NOTICE OF COMPLAINT TO APPEAR**

NO. 28194-CPAN

Public Utilities Commission of the State of Colorado

v.

Fred Nnanna dba American Transit Express  
 PUC Authority #: B-9847  
 4901 Durham Court  
 Denver, CO 80239

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty
1	July 7, 2003	4 CCR 723-15-2.1; Part 391.51(a)	Failing to maintain a driver qualification file: Nnanna	Denver, CO	\$200.00
2	July 7, 2003	4 CCR 723-15-2.1; Part 391.51(a)	Failing to maintain a driver qualification file: Ezewusim	Denver, CO	\$200.00
3	July 7, 2003	4 CCR 723-15-2.1; Part 395.8(a)	Failing to require driver to prepare a record of duty status: Nnanna	Denver, CO	\$200.00
4	July 7, 2003	4 CCR 723-15-2.1; Part 395.8(a)	Failing to require driver to prepare a record of duty status: Ezewusim	Denver, CO	\$200.00

**Total Penalty: \$800.00**

I HEREBY ACKNOWLEDGE RECEIPT OF THIS NOTICE.

\_\_\_\_\_  
 Respondent's Signature

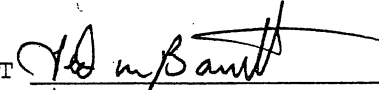
UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE  
 LIABILITY OF ALL VIOLATIONS HEREIN.  
 (See Instructions on Last Page)

\_\_\_\_\_  
 Respondent's Signature

If the penalty assessment is not paid within ten days of the issuance of this notice, then you must contact the Public Utilities Commission by 4:00 p.m. on September 12, 2003, to set the alleged violation(s) for hearing. Call the P.U.C. at 800/888-0170, ext. 2824, or 303/894-2824.

THE UNDERSIGNED HAS PROBABLE CAUSE TO BELIEVE THAT THE RESPONDENT COMMITTED THE VIOLATION(S) CITED AND AFFIRMS THAT A COPY OF THIS CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR WAS DULY SERVED UPON THE RESPONDENT.

COMPLAINANT Barrett  
 print last name

COMPLAINANT   
 signature

INVESTIGATIVE PERSONNEL OF THE COLORADO PUBLIC UTILITIES COMMISSION

DATED THIS 14TH DAY OF AUGUST, 2003

Copy Distribution: #1: Commission Records #3: Enforcement  
 #2: Respondent #4: Colorado Attorney General

Copy # \_\_\_\_\_ THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION

**THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION**

This document provides you information about your options upon receipt of this notice. You may pay this civil penalty by mail or in person. Or, you may contest the penalty at a hearing. Please read carefully the following instructions.

**CIVIL PENALTY ASSESSMENT NOTICE INSTRUCTIONS**

The notice you have received is called a Civil Penalty Assessment Notice. The penalty for the alleged violation(s) is described on the preceding pages. It is the prescribed penalty for the stated violation(s) as required by law and specified in the Public Utilities Commission's Rules and Regulations Concerning Civil Penalties for Carriers. You may pay this penalty by mail or in person.

By paying the Civil Penalty Assessment, you acknowledge your liability.

Your payment may be made by money order or check. Do not mail cash. If the payment is mailed, it must be postmarked no later than 10 days from the date of issuance of this notice. This date appears on the fourth line from the bottom of the previous page.

To receive credit for payment, please sign on the previous page of this notice on the signature line adjacent to the statement "UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATION(S) HEREIN" and enclose this signed notice with the payment. The address to mail or pay in person is:

Public Utilities Commission  
1580 Logan Street, Office Level Two  
Denver, CO 80203

**COMPLAINT TO APPEAR NOTICE INSTRUCTIONS**

If you decide to not pay the penalty and want to contest it, you are required to contact the Public Utilities Commission by 4 p.m. on or before the date and at the telephone number shown on the previous page. When you call the Commission, be prepared to provide dates when you will be available to attend a hearing on this issue. If you fail to contact the Commission before 4 p.m. on the date shown, the Commission shall set the hearing date without any preference to your wishes. You will be notified about the hearing date. If you are under 18 years of age, you must be accompanied by a parent or a guardian at the hearing.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within  
STIPULATION OF SETTLEMENT OF CIVIL PENALTY ASSESSMENT NO. 28194-  
CPAN AND MOTION TO CLOSE DOCKET NO. 03G-359BP upon all parties  
herein, by U.S. mail or in person, on this 25TH day of  
September, 2003.

Fred Nnanna, Owner  
American Transit Express  
4901 Durham Court  
Denver, Colorado 80239

Bruce N. Smith, Director  
Public Utilities Commission  
1580 Logan Street, OL-2  
Denver, CO 80203

Robert C. Laws  
Staff of the Commission  
1580 Logan Street, OL2  
Denver, CO 80203

  
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COMPLIANCE INVESTIGATOR