

Decision No. R04-0896-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04F-219CP

RDSM TRANSPORTATION. LTD., D/B/A YELLOW CAB COMPANY OF COLORADO
SPRINGS,

COMPLAINANT,

V.

SAMJA'S ENTERPRISES, INC., D/B/A EXPRESS AIRPORT TAXI/EXPRESS TAXI,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION TO
WITHDRAW AS COUNSEL**

Mailed Date: August 3, 2004

I. STATEMENT

1. On July 23, 2004, a Motion and Notice of Withdrawal (Motion/Notice) was filed in the captioned matter by Kenneth R. Nuss, legal counsel of record for Respondent, Samja's Enterprises, Inc., doing business as Express Airport Taxi/Express Taxi (Express Taxi).

2. The Motion/Notice requests that Mr. Nuss be allowed to withdraw as legal counsel for Express Taxi in this matter. It is accompanied by a Consent to Withdrawal of Respondent's Attorney executed by Earl E. Elsrode, Express Taxi's President.

3. As grounds for the Motion/Notice, Mr. Nuss refers to paragraph 5 of a pleading entitled "Response to Complainant's Motion for Sanctions" dated July 19, 2004. There,

Mr. Nuss indicates that he is unable to continue as Express Taxi's counsel due to the demands imposed upon his solo practice by this case and by the limited financial resources available to Express Taxi to defend the same.

4. Requests to withdraw as legal counsel in Commission proceedings are governed by 4 *Code of Colorado Regulations* 723-1-21(c). Rule 21(c) requires a withdrawing attorney to file a motion and notice containing the last known address of the party represented by the attorney and a list of all pending hearing dates. It also imposes a mandatory ten-day objection period and precludes a ruling on a motion to withdraw until the objection period expires.

5. The ten-day objection period discussed above has now expired and no response to the Motion/Notice, or objection to the relief requested therein, has been filed by Express Taxi or any other party. Indeed, as indicated above, Express Taxi's President has consented to Mr. Nuss' withdrawal as that entity's legal counsel. The Motion/Notice is in compliance with the remaining requirements of Rule 21(c).¹ Accordingly, the Motion/Notice will be granted.

II. ORDER

A. It Is Ordered That:

1. The Motion and Notice of Withdrawal filed in the captioned matter by Kenneth R. Nuss, legal counsel of record for Respondent, Samja's Enterprises, Inc., doing business as Express Airport Taxi/Express Taxi, is granted.

2. This Order shall be effective immediately.

¹ Paragraph 10 of Complainant's Motion for Sanctions and for an Order Continuing the Deposition of Earl Elsrode to a Date Certain dated July 28, 2004, suggests that the Motion/Notice does not comply with Rule 21(c) since it does not notify Express Taxi of "...all outstanding unresolved matters and the scheduled document filing dates set by the Rules and Regulations of the P.U.C. and the Interim Orders of the Administrative Law Judge." However, Rule 21(c) does not require a withdrawing attorney to notify the party represented by the attorney of such matters.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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