

Decision No. R04-1452-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-147CP

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

LEV TZOW, LLC, DOING BUSINESS AS MOUNTAIN LIMO,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
REQUIRING FILING**

Mailed Date: December 8, 2004

I. STATEMENT

1. Staff of the Commission (Staff) issued Civil Penalty Assessment Notice or Notice of Complaint to Appear No. 28540-CPAN (CPAN). Lev tzow, LLC, doing business as Mountain Limo (Respondent), acknowledged receipt of the CPAN. *See* CPAN at 3. The CPAN, which alleges 40 violations of Commission rules, commenced this proceeding.

2. On April 16, 2004, Respondent acknowledged its liability for violations no. 10 and no. 11. Respondent requested a hearing on the remaining 38 alleged violations.

3. On December 3, 2004, the parties filed a Joint Motion to Vacate Hearing and Approve Stipulation and for Waiver of Response Time. Accompanying that filing was a

Stipulation and Settlement Agreement (Stipulation) which, if accepted, would resolve all issues in this proceeding.

4. By Decision No. R04-1443-I the undersigned Administrative Law Judge (ALJ) granted the motion to vacate the hearing. In that Order, the ALJ took the Stipulation under advisement and informed the parties that a hearing on the Stipulation might be necessary.

5. The ALJ has reviewed the Stipulation and has determined that a hearing on the Stipulation will be held. The ALJ notes that the amount of the civil penalty sought by Staff in the CPAN is \$7,600; that the civil penalty would have been \$3,800 if Respondent had paid within ten days of the date of receipt of the CPAN; that the civil penalty agreed to by the parties is \$2,900; and that the Stipulation contains no recitation of facts and/or mitigating factors which support or explain the agreed-upon civil penalty. Aside from the CPAN itself, there is no record upon which to determine whether or not to accept the Stipulation. The purpose of the hearing, therefore, is to provide the parties with an opportunity to create an evidentiary record which contains support for the proposed civil penalty of \$2,900 and for the proposed payment plan.

6. The parties must confer with respect to a hearing date and the city in which the hearing should be held.¹ Staff will be ordered to make, on or before **December 17, 2004**, a filing which contains a proposed hearing date and city in which the hearing should be held.²

¹ Because Respondent is located in Telluride and winter is the busy season for Respondent, the ALJ would consider taking Respondent's testimony by telephone if the parties were to propose a procedure for doing so and for assuring that any necessary documents are available for the record.

² The ALJ requests that the parties contact her (telephone: 303.894.2842) to discuss available hearing dates before making the filing.

II. ORDER

A. It Is Ordered That:

1. On or before December 17, 2004, Staff of the Commission shall make a filing which proposes a date and location (*i.e.*, city) for an evidentiary hearing addressing the Stipulation and Settlement Agreement.

2. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge