

Decision No. R14-0165-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14G-0044EC

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

COLORADO CLASSIC LIMO, LLC.,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING HEARING, ESTABLISHING DEADLINES,
AND ADDRESSING RESPONDENT'S REPRESENTATION**

Mailed Date: February 11, 2014

I. STATEMENT

1. On January 10, 2014, Commission Staff (Staff) with the Public Utilities Commission (Commission) filed a Civil Penalty Assessment Notice (CPAN) against Colorado Classic Limo, LLC (Respondent) seeking to assess civil penalties against Respondent in the amount of \$550.00, including a 10 percent surcharge.

2. On February 5, 2014, the Commission referred the CPAN to an administrative law judge (ALJ) for disposition.

A. Burden of Proof at Evidentiary Hearing

3. The ALJ will hold an evidentiary hearing on the CPAN. At the hearing, Staff will carry the burden to prove by a preponderance of the evidence that Respondent committed the

violations charged in the CPAN. Respondent will have an opportunity to present evidence in its defense.

B. Respondent's Representation

4. Generally, a party in a proceeding before the Commission must be represented by an attorney authorized to practice law in the State of Colorado. Rule 1201(a), of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. There are some exceptions. For instance, individuals are entitled to represent their own interests, and a non-attorney may represent the interests of a closely-held entity if certain conditions are met. Rule 1201(b)(I) and (II), 4 CCR 723-1; § 13-1-127, C.R.S.¹

5. Respondent is a limited liability company. The record does not reveal any attorney who will represent Respondent in this proceeding. If Respondent wishes to be represented by a non-attorney in this proceeding, Respondent carries the burden to prove it is entitled to do so, by meeting the criteria of Rule 1201(b)(II), 4 CCR 723-1 and § 13-1-127(2), C.R.S.

6. To meet that burden of proof, Respondent must first establish that it is a closely-held entity. This means that it must establish that it has "no more than three owners." Section 13-1-127(1)(a), C.R.S. Second, Respondent must demonstrate that it meets the requirements of § 13-1-127(2), C.R.S. That statute provides that an officer may represent a closely-held entity before an administrative agency if **both** of the following conditions are met: (a) the amount in controversy does not exceed \$15,000; **and** (b) the officer provides the administrative agency with evidence, satisfactory to the agency, of the officer's authority to

¹ Other exceptions exist, but the ALJ finds those do not apply.

represent the closely-held entity.² The following persons are presumed to have authority to represent a closely-held entity: an officer, general partner, person in whom management of a limited liability company is vested or reserved, and a member of a limited liability partnership association. §13-1-127(2.3), C.R.S.

7. If Respondent wishes to be represented by a non-attorney, Respondent must meet the burden of proof outlined above. Respondent may do so prior to the hearing by making a filing with the Commission that satisfies its burden of proof, as outlined above. Respondent may also do so at the time of the evidentiary hearing.

C. Disclosure of Evidence to Be Offered at Hearing

8. In anticipation of the hearing, the ALJ will order the parties to make disclosures of the witnesses and exhibits that they intend to present at the hearing in support of their position.

9. Witness lists shall include a description of the witnesses' testimony and the witnesses' last known address and telephone number. Witnesses are those persons who will testify on behalf of a party. All witnesses shall be sworn before commencing their testimony.

10. If Respondent intends to call **only one** of the following: its owner, operator, officer, member, partner, or manager, Respondent is not required to file a witness list.³ **However, if Respondent wishes for any other person to testify on its behalf, Respondent must file a witness list as required by this Decision.**

² As pertinent here, § 13-1-127(2.3), C.R.S., states that an officer of a corporation "shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person's holding the specified office or status[.]"

³ It is reasonable to presume that Respondent will call a single representative witness to testify regarding its position on the CPAN.

11. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

12. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to the other party to the proceeding. Service may be accomplished by United States Mail, or through the Commission's E-filing system, if the party is registered with the E-filing system.

13. Reference to filing a document means that the party shall provide the document to the Commission.

14. **All parties are advised** that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1, Part 1. The ALJ expects the parties to comply with the Rules of Practice and Procedure. The rules are available on the Commission's website (www.dora.colorado.gov/puc) and in hard copy from the Commission.

15. **Non-attorneys will be held to the same standards as attorneys.**

II. **ORDER**

A. **It Is Ordered That:**

1. A hearing on the merits of the Civil Penalty Assessment Notice in this matter will be held as follows:

DATE:	March 12, 2014
TIME:	10:00 a.m.
PLACE:	Commission Hearing Room 1560 Broadway, 2nd Floor Denver, Colorado

2. At the above date, time, and place you will be given the opportunity to be heard if you so desire.

3. Colorado Classic Limo, LLC (Respondent) shall choose one of the following: (1) to obtain counsel who is currently in good standing before the Colorado Supreme Court to represent it in this proceeding; *or* (2) to be represented by a non-attorney in this proceeding. If Respondent wishes to be represented by a non-attorney, Respondent must meet the requirements set forth in ¶ 6 above; Respondent may do so by making a filing with the Commission prior to the date of the hearing, or Respondent may present evidence at the time of the hearing to meet its burdens.

4. Commission Staff shall file and serve exhibit and witness lists and exhibits **on or by 5:00 p.m. on February 26, 2014.**

5. Colorado Classic Limo LLC (Respondent) shall file and serve exhibit and witness lists and exhibits **on or by 5:00 p.m. on March 5, 2014.** If Respondent intends to call as a witness **only one** of the following: its owner, its operator, its officer, its member, partner or its manager, Respondent is not required to file a witness list. **However, if Respondent wishes for any other person to testify on its behalf, Respondent must file a witness list as required by this paragraph.**

6. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, Exhibit 3). The exhibits shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties may utilize the Commission's exhibit stamp to include this information on the exhibits; the parties are advised that they must have all their exhibits stamped prior to the time the hearing is scheduled to begin.

7. At the hearing, the parties **shall bring an original and two copies of each exhibit** they intend to introduce, **along with a completed exhibit list in the format set forth in Appendix A to this Decision.**

8. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number each page of the exhibit. The parties shall comply with all mandates in this Decision.

9. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director