

Decision No. R14-0194-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14G-0033EC

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

AIRPORT'S BEST TRANSPORTATION LLC,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
RESCHEDULING HEARING**

Mailed Date: February 20, 2014

I. STATEMENT

1. On January 7, 2014, Colorado Public Utilities Commission Staff (Staff) filed Civil Penalty Assessment Notice No. 108470 (CPAN) against Airport's Best Transportation LLC (Airport's Best or Respondent). The CPAN alleges ten separate violations of *Rule 6105(c) of the Rules Regulating Transportation by Motor Vehicle, 4 Code of Colorado Regulations (CCR) 723-6*.

2. On January 8, 2014, pursuant to the directive set forth in CPAN No. 108470, Airport's Best contacted the Colorado Public Utilities Commission (Commission) and requested that a hearing be scheduled in this matter.

3. On January 15, 2014, counsel for Staff entered his appearance in the above captioned proceeding.

4. On January 24, 2014, the Commission scheduled the above captioned proceeding for an evidentiary hearing to be held on February 19, 2014.

5. On January 29, 2014, the Commission referred the matter to an administrative law judge (ALJ) to decide the merits of the CPAN.

6. At the date and time scheduled, the proceeding was called and the Respondent failed to appear. The proceeding was recessed and called again after 15 minutes and the Respondent failed to appear. Staff began its case and after ten minutes Mr. Saeid Asgari appeared for the hearing.

7. Mr. Asgari stated that he had arrived at the offices of the Commission prior to the scheduled start of the hearing but had been directed to the incorrect hearing room. The undersigned ALJ determined after a series of questions that Mr. Asgari could represent the interests of the Respondent but due to difficulties with the English language required a translator.

8. Due to Mr. Asgari's difficulty with the English language the hearing was continued for him to obtain a Farsi translator.

II. LEGAL COUNSEL/SELF REPRESENTATION

9. *Rule 1201(a) of the Rules of Practice and Procedure, 4 CCR 723-1*, requires a party in a proceeding before the Commission to be represented by an attorney except that, pursuant to *Rule 1201(b), 4 CCR 723-1*, and as relevant here, an individual who is not an attorney may appear to represent the interests of a closely-held entity, provided the Commission grants permission.

10. Respondent is a Colorado limited liability company, is a party in this matter, and is not represented by an attorney in this proceeding.

11. Representations made by Mr. Asgari on February 19, 2014, establishes that Airport's Best is a closely-held entity within the meaning of § 13-1-127(1)(a), C.R.S., the amount in controversy is less than \$10,000, and Mr. Asgari has authority to represent the Respondent.

12. Having met the requirements of *Rule 1201(b)*, 4 CCR 723-1, Mr. Asgari shall be allowed to represent the Respondent, although counsel may be engaged to represent the interests of the Respondent. Any counsel engaged by the Respondent must be an attorney at law currently in good standing before the Supreme Court of the State of Colorado

13. If Respondent elects to obtain counsel, then its counsel must enter an appearance in this matter on or before **close of business on March 31, 2014.**

14. If Mr. Asgari elects to represent the interests of the Respondent, he is advised, and is on notice, that Mr. Asgari is the only non-attorney who is authorized to be Airport's Best representative in this proceeding.

15. Mr. Asgari is advised, and is on notice, that if he elects to represent the interest of the Respondent, that he shall be bound by the same procedural and evidentiary rules as attorneys.

The Colorado Supreme Court has held that,

“[b]y electing to represent himself [in a criminal proceeding,] the defendant subjected himself to the same rules, procedures, and substantive law applicable to a licensed attorney. A pro se defendant cannot legitimately expect the court to deviate from its role of impartial arbiter and [to] accord preferential treatment to a litigant simply because of the exercise of the constitutional right of self-representation.” *People v. Romero*, 694 P.2d 1256, 1266 (Colo. 1985).

“This standard applies as well to civil proceedings.” *Negron v. Golder*, 111 P.3d 538, 541 (Colo. App. 2004).

“If a litigant, for whatever reason, presents his own case to the court, he is bound by the same rules of procedure and evidence as bind those who are admitted to practice law before the courts of this state.” *Loomis v. Seely*, 677 P.2d 400, 402 (Colo. App. 1983). “A judge may not become a surrogate attorney for a *pro se* litigant.” *Id.*

16. **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.

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

III. **FARSI TRANSLATOR**

18. The Commission does not provide translators for any proceeding. It shall be the responsibility of Mr. Asgari to provide his own translator for the evidentiary hearing.

19. If Mr. Asgari fails to provide a Farsi translator for the evidentiary hearing, he shall not be granted an additional continuance.

IV. **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: April 8, 2014
TIME: 9:00 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. Mr. Asgari shall be responsible for providing a Farsi translator for the hearing scheduled for April 8, 2014. If Mr. Asgari fails to provide a translator for the scheduled hearing, a continuance shall not be granted.

4. Mr. Asgari may represent the interests of Respondent Airport's Best Transportation LLC.

5. If the Respondent elects to engage an attorney to represent the interests of Airport's Best Transportation LLC, that attorney must enter an appearance in this proceeding by close of business on March 31, 2014.

6. The parties shall comply with all mandates stated in this Decision.

7. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director