

Decision No. R14-0211

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13G-1320EC

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

ELITE PRODUCTIONS, LLC, DOING BUSINESS AS, CHERRY CREEK LIMO,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
GRANTING STAFF'S MOTION
TO WITHDRAW CPAN NO. 108304
AND DISMISSING PROCEEDING WITH PREJUDICE**

Mailed Date: February 25, 2014

I. STATEMENT

1. The captioned proceeding was initiated on December 10, 2013, when the Staff of the Colorado Public Utilities Commission (Commission) issued Civil Penalty Assessment Notice (CPAN) No. 108304 to Elite Productions, LLC, doing business as Cherry Creek Limo (Respondent), alleging one violation of Commission regulations for permitting a driver to operate who is not qualified to drive, 4 *Code of Colorado Regulations* (CCR) 723-6-6102(a)(I) of the Commission's Rules Regulating Transportation by Motor Vehicle and 49 *Code of Federal Regulations* § 391.11(a); and one violation for failing to maintain and retain accurate and true time records, including all supporting documentation, 4 CCR 723-6-6103(d)(II)(C).

The total amount of the civil penalty assessment for the above violations is \$3,300.00. Respondent was served with a copy of CPAN No. 108304 on December 12, 2013 by certified mail, return receipt requested.

2. Legal counsel for Staff of the Commission (Staff) filed its Entry of Appearance in this matter on January 13, 2014.

3. On January 2, 2014, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition. The matter was subsequently assigned to the undersigned ALJ.

4. By Interim Decision No. R14-0037-I, this matter was set for hearing on February 28, 2014.

5. On February 20, 2014, Staff filed a Motion for Leave to Withdraw Civil Penalty Assessment Notice and to Dismiss Proceeding with Prejudice (Motion). According to the Motion, Staff received additional information from Respondent subsequent to the issuance of the CPAN that the trip in question which resulted in the issuance of CPAN No. 108304 was not for hire. Consequently, Staff requests, pursuant to 4 *Code of Colorado Regulations* (CCR) 723-1-1309 leave to withdraw CPAN No. 108304 and dismiss this proceeding with prejudice.

6. Good cause is found to grant Staff's Motion to withdraw CPAN No. 108304 and dismiss this proceeding with prejudice. Response time to the Motion will be waived.

7. The hearing scheduled for February 28, 2014 is vacated.

8. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. It Is Ordered That:

1. The Motion of Commission Transportation Staff for Leave to Withdraw Civil Penalty Assessment Notice and to Dismiss Proceeding with Prejudice (Motion) filed on February 20, 2014 is granted.

2. Response time to the Motion is waived.

3. Civil Penalty Assessment Notice No. 108304 is withdrawn.

4. The evidentiary hearing regarding Civil Penalty Assessment No. 108304 scheduled for February 28, 2014 is vacated.

5. This proceeding is dismissed with prejudice.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a.) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b.) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the

administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director