

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15G-0151CP

Civil Penalty Assessment Notice No. 111888

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

MELAK A. CHECKOLE,

Respondent.

STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission (“Staff”) and Respondent, Melak A. Checkole (“Respondent”) (collectively, the “Parties”) enter into this Stipulation and Settlement Agreement (“Agreement”) in the above-referenced proceeding as a complete and final resolution of all issues that were or could have been raised in this proceeding.

Background

On March 6, 2015, Staff issued Respondent Civil Penalty Assessment Notice No. 111888 (the “CPAN”) seeking civil penalties of \$13,310.00 (or \$6,655.00 if paid within 10 days). The CPAN alleged one violation of section 40-10.1-201(1), C.R.S., and one violation of section 40-10.1-107(1), C.R.S. The CPAN was served by hand delivery on March 6, 2015.

Staff moved to amend the CPAN by changing the first count to a violation of 4 Code of Colorado Regulations (“CCR”) 723-6-6309(a). The Parties were advised on July 21, 2015 that an interim decision granting the motion was being issued by the Administrative Law Judge. Staff also confirmed in open court that it intended to dismiss the second count in the CPAN.

Settlement Agreement

Staff and Respondent hereby stipulate and agree as follows:

1. Staff agrees to dismiss the second count in the CPAN. Respondent admits liability to the remaining violation in the CPAN, as amended.
2. Respondent agrees to comply with all Colorado and federal statutes and Commission rules concerning operation of a luxury limousine service.
3. The Agreement herein has been reached in the spirit of compromise and in light of the uncertainties of trial. The Agreement has also been reached to avoid the costly expense of litigation. The Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter. The public interest is served by requiring the payment by Respondent of a civil penalty in the amount of \$605.00 under the terms in this Agreement. In reducing the penalty, Staff considered the following mitigating factors pursuant to Commission Rule 1302(b):
 - a. Respondent operates a one car/one driver motor carrier business.

- b. The full amount of the CPAN would cause financial hardship on Respondent.
- c. Respondent and his family rely solely on the income from his limousine business.
- d. Respondent understands that Transportation under his current permit requires prearrangement.
- e. Respondent has actively been engaged with the PUC to resolve this CPAN.
- f. Assessing Respondent a civil penalty of \$605.00 under the terms herein is sufficient motivation for Respondent to remain in compliance with the Public Utilities Laws and Commission Rules on a going-forward basis.

4. In consideration of Respondent's admission of liability, and for the reasons expressed above, Staff agrees reducing the amount of the civil penalty from \$1,210.00 to \$605.00 is appropriate and in the public interest. This \$605.00 settlement amount consists of a \$550.00 penalty, plus a ten-percent surcharge of \$55.00 pursuant to section 24-34-108, C.R.S.

5. Respondent shall pay the total amount of \$605.00 in two installments. The first installment of \$302.50 is due within 10 days of the Commission's final order approving this Agreement, and the balance of \$302.50 is due 30 days following the first installment's due date.

6. If Respondent fails to make any of the installment payments when due, Respondent shall be liable for the full civil penalty amount of \$1,210.00 less any payments made, which amount will be due immediately.

7. Respondent further agrees that if, during any investigation(s) conducted by Staff within twelve months of the date of a Commission final order in this proceeding, the Commission finds any violations of rules or statutes the same or of a similar nature as the violation for which Respondent has admitted liability, Respondent shall be liable for the full civil penalty, less payments made. In this event, the remaining full civil penalty will be due immediately. Respondent and Staff agree the specific intent of this provision is to prevent further violations of the Public Utilities Laws and Commission Rules.

8. All matters that were raised or could have been raised in this proceeding relating to the issues specifically identified and addressed herein have been resolved by this Agreement. This Agreement may be executed in counterparts, each of which when taken together shall constitute the entire Agreement of the Parties, and no further modification of this Agreement is allowed, except in writing by the Parties, and further agreed to in an order issued by the Commission.

9. Respondent's failure to complete its payment obligations as set forth in this Agreement shall also be deemed a waiver by Respondent of any and all rights to file exceptions and/or a request for rehearing, reargument, and reconsideration, or to file any other form of appeal.

10. In the event that this Agreement is modified or not approved in its entirety, either Party, at that Party's option, may withdraw from this Agreement by filing a notice with the Commission in this proceeding within seven days of entry of

such Order. In that event, this Agreement shall be void and this matter shall be set for hearing.

Executed this 30 day of July, 2015.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

By: Tony Cummings
Tony Cummings

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RESPONDENT
Melak A. Checkole

Melak A. Checkole

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