

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF
COLORADO

Proceeding No. 17G-0156TO

Civil Penalty Assessment Notice 117777

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

RED'S TOWING,

Respondent.

STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission (“Staff”) and Respondent Red’s Towing (“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. The owner of Respondent Red’s Towing, David Widhalm, represents that he has authority to enter into settlement on behalf of Respondent.

Background

On March 6, 2017, the Commission issued Respondent Civil Penalty Assessment Notice No. 117777 (the “CPAN”) seeking civil penalties of \$316.25 (or \$158.13 if paid within 10 days). The CPAN alleged one (1) violation of 4 CCR 723-6-

6512(a). The CPAN was served, via certified mail, return receipt requested, on May 9, 2017.

Settlement Agreement

Staff and Respondent hereby stipulate and agree as follows:

1. Respondent admits liability to all the violations in the CPAN.
2. Respondent agrees to comply with all Colorado and federal statutes, regulations and rules concerning immediately accepting payment of the drop charge, towing, storage, and release charges if payment is offered in cash or valid major credit card in accordance with 4 CCR 723-6-6512(a).

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 \$200.00 under the terms in this Agreement. In reducing the penalty, Staff considered the following mitigating factors pursuant to Commission Rule 1302(b):

- a. Respondent acknowledges wrongdoing.
- b. Respondent is a single owner.
- c. Respondent has agreed to accept payment of the drop charge, towing, storage, and release charges when payment is offered in cash or valid major credit card in accordance with 4 CCR 723-6-6512(a).
- d. Respondent has refunded the consumer, Mauro Rey, three hundred seventy-five (\$375.00) associated with Respondent's towing of Mr. Rey's vehicle on December 31, 2016. Respondent admits the maximum level of

- culpability for the single violation of 4 CCR 723-6-6512(a) in the CPAN.
- e. Respondent engaged Staff in settlement discussions and has been cooperative with Staff.
 - f. Assessing Respondent a civil penalty of \$200.00 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 \$316.25 to \$200.00 is appropriate and in the public interest. This \$200.00 settlement amount consists of a \$173.91 penalty, plus a fifteen-percent (15%) surcharge of \$26.09 pursuant to § 24-34-108, C.R.S.

5. Respondent shall pay the total amount of \$200.00 within 15 days of the Commission's final order approving this settlement agreement.

6. If Respondent fails to make the payment when due as outlined immediately above, Respondent shall be liable for the full civil penalty amount of \$316.25, which will be due immediately.

7. Respondent further agrees that if, during any investigation(s) conducted by Staff within twelve (12) months of the date of a Commission final order in this proceeding, the Commission finds any violations of rules or statutes regarding Respondent's failure to accept payment of the drop charge, towing, storage, and release charges in cash or valid major credit card when payment is offered in accordance with 4 CCR 723-6-6512(a), 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 (7) days of entry of such Order. In that event, this Agreement shall be void and this matter shall be set for hearing in Denver, Colorado.


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Executed this 1ST day of JUNE, 2017.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

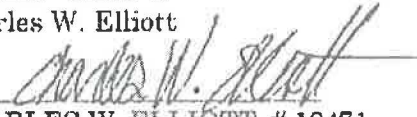
By: 
Cliff Hinson
Manager, Investigations and Compliance
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Denver, Colorado 80202

RED'S TOWING

By: 
David Widhalm, owner
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Phone: 303-733-7809
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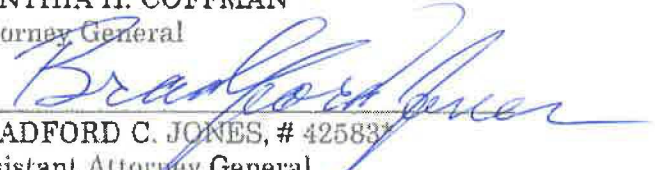
Approved as to form:

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