

Decision No. R25-0404

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0194HHG

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

MICHELLE MARIE ROJAS & MARGERTO B ROJAS DOING BUSINESS AS MEAN
MOMMA BOSS BITCH MOVING,

RESPONDENT.

**RECOMMENDED DECISION REQUESTING THE
ATTORNEY GENERAL COMMENCE AN ACTION IN
DISTRICT COURT**

Issued Date: May 27, 2025

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I. STATEMENT**A. Procedural Background**

1. On May 1, 2024, the Staff of the Public Utilities Commission (“Staff”) issued Civil Penalty Assessment or Notice of Complaint to Appear No. 140139 (“CPAN”) against Respondents Michelle Marie Rojas & Margerto B. Rojas, doing business as Mean Momma Boss B1tch Moving (“Mean Mama”) alleging one count of violating § 40-10.1-107(1), C.R.S. and one count of § 40-10.1-502(1)(a), C.R.S. on April 11, 2024. The CPAN states that the civil penalty assessed for the alleged violations is \$13,915.00, but that if a respondent pays the civil penalty within ten calendar days of its receipt of the CPAN, the civil penalty will be reduced to \$6,957.50. Finally, the CPAN states that, if the Public Utilities Commission (“Commission”) does not receive payment within ten days, the CPAN will convert into a Notice of Complaint to Appear and a hearing will be scheduled at which Staff will seek the “Total Amount” of \$13,915.00. The CPAN also states that the Commission may order Respondent to cease and desist from violating statutes and Commission rules.

2. On June 17, 2024, the Commission referred this proceeding by minute entry to an Administrative Law Judge (“ALJ”) for disposition.

3. On July 29, 2024, by Decision No. R24-0542-I, an evidentiary hearing was scheduled for August 27, 2024.

4. At the scheduled time and place, the hearing was convened. Staff appeared through counsel. Respondents appeared on behalf of themselves.

5. By Decision No. R24-0646, issued September 11, 2024, the Respondents were found to have violated §§ 40-10.1-107(1) and 40-10.1-502(1)(a), C.R.S., and ordered to immediately cease and desist further operation as a mover until such time as they have complied with all Colorado statutes and Commission rules governing such operation.¹ However, no monetary civil penalty was assessed based, in part, because Ms. Rojas was already subject to penalties for violations of the same statute in Proceeding No. 18G-0792HHG.² Respondents expressed a desire to comply with the previous penalty and regulations in order to operate their business and prevent similar violations in the future. The ALJ concluded that increasing their penalty assessment would not encourage future compliance but may have presented an insurmountable barrier to entry for the small business.³

6. On February 5, 2025, Staff filed its Motion to Reopen and Remand (“Motion”) requesting that the Commission reopen and remand this Proceeding so that Staff could present evidence and testimony regarding alleged violations and seek an order to bring an action in state district court for injunctive relief to prevent further violations.

7. By Decision No. C25-0121-I, issued on February 19, 2025, the Commission granted the Motion.

8. By Decision No. R25-0133-I, issued February 26, 2025, the undersigned ALJ scheduled an evidentiary hearing to be held on May 5, 2025.

9. At the scheduled time and place, the hearing was convened. Staff appeared through counsel. Neither Respondent appeared. A recess was taken to allow additional time for the Respondents to appear. After a 15-minute recess, the hearing continued without the presence of

¹ Decision No. R24-0646 at p. 12 ¶ 3. No exceptions were filed to Decision No. R24-0646; thus it became a decision of the Commission.

² The \$13,915 penalty assessed in Proceeding No. 18G-0792HHG remains unpaid.

³ Decision No. R24-0646 at ¶¶ 31-33.

the Respondents. Staff offered the testimony of Joseph Potts, Criminal Investigator (“CI Potts”), and Lloyd Swint, Manager of the Investigations and Compliance Unit (“CI Swint”). During the course of the hearing, Hearing Exhibits 114 through 122, and 124, were identified, offered and admitted into evidence. At the conclusion of the hearing the undersigned ALJ took the matter under advisement.

10. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record and exhibits of this proceeding along with a written recommended decision.

II. FINDINGS OF FACT

11. No person shall operate or offer to operate as a mover in intrastate commerce, or advertise services as a mover, without first having obtained a permit from the Commission. § 40-10.1-502, C.R.S. Movers are required to maintain and file with the commission evidence of financial responsibility.⁴

12. “Each motor carrier shall maintain and file with the commission evidence of financial responsibility in such sum, for such protection, and in such form as the commission may by rule require as the commission deems necessary to adequately safeguard the public interest.”⁵

13. As referenced above, Respondents violated one count of § 40-10.1-107(1), C.R.S., and one count of § 40-10.1-502(1)(a), C.R.S., on April 11, 2024. Despite no monetary civil penalty being assessed, Respondents were ordered to immediately cease and desist further operation as a mover until such time as they have complied with all Colorado statutes and Commission rules governing such operation.⁶

⁴ § 40-10.1-502, C.R.S.

⁵ § 40-10.1-107(1), C.R.S. *See also*, § 40-10.1-101, C.R.S.

⁶ Decision No. R24-0646.

14. In Proceeding No. 25G-0031HHG, Staff issued CPAN No. 141772 to Rafael Benjamin Rojas doing business as Huffly Puffy on December 24, 2024, alleging two violations of Article 10.1 of Title 40, C.R.S., inclusive of a surcharge and penalty enhancement under § 40-7-113(3), C.R.S.⁷ Because CI Potts found that Mr. Rojas previously committed the charged violations within the previous 24 months, double the amount of civil penalties were requested to be imposed, pursuant to Rule 6019.⁸ Mr. Rojas was found to have violated §§ 40-10.1-107(1) and 40-10.1-502(1)(a), C.R.S., on November 4, 2024, as alleged in CPAN No. 141722. A civil penalty was assessed in the amount of \$27,830, inclusive of the applicable surcharge and statutory penalty enhancement, for the violations.⁹

15. During his investigation, CI Potts found that Mr. Rojas uses several alias names and alias business names.¹⁰ CI Potts investigated Huffly Puffy, including reviewing records from the Secretary of State and various phone numbers and addresses listed in complaints against Mr. Rojas. He confirmed that Mr. Rojas listed in the Mean Momma proceeding was the same person as Mr. Rojas listed in the Huffly Puffy proceeding.

16. CI Potts reviewed Mr. Rojas' DMV dossier¹¹ provided by CI Swint to confirm the identity of Mr. Rojas.

17. The ALJ found in Proceeding No. 25G-0031HHG that Rafael Benjamin Rojas is also known by the following aliases: Margerto Jo Ralph Rojas, Margerto Benjamin Rojas, Margerto Joe Ralph Rojas, Umberto Rojas, M. Ralph Rojas, Margerito Rojas, and Ben Rojas. Further, he operates or has operated the following moving businesses: Huffly Puffy, Mean Momma,

⁷ Hearing Exhibit 106 at 1.

⁸ Rule 6019, 4 CCR 723-6.

⁹ See, Decision No. R25-0265, issued April 9, 2025. No exceptions were filed to Decision No. R24-0265, thus it became a decision of the Commission.

¹⁰ Hearing Exhibit 114.

¹¹ Hearing Exhibit 116 and Hearing Exhibit 116C ("C" denotes confidential version).

Fresh Start Moving, Mean Momma Boss, Big Momma Boss Moving, Moonlight Movers, Denver Small Movers, Ridiculous Movers, Calvin's Moving, 24 Hour Small Moves, and His and Hers Reliable Movers.

18. CI Potts determined that none of the alias names or alias business names used by Respondent had filed proper proof of insurance with the Commission or obtained a valid permit to operate as a mover of household goods.

19. Decision No. R25-0265 also ordered Mr. Rojas to immediately cease and desist further operation as a mover of household goods until such time as he complies with all Colorado statutes and Commission rules governing such an operation. It was further specified to apply to: (a) all Rafael Benjamin Rojas' aliases; (b) any owner, principal, officer, member, partner, or director of Rafael Benjamin Rojas; and (c) any other entity owned or operated by Rafael Benjamin Rojas, or any principal, officer, member, partner, or director of such entity.

20. CI Potts opined that the issuance of multiple CPANs which include civil penalties and cease and desist orders against Mr. Rojas has not had any effect on his behavior, and despite multiple orders being issued,¹² Mr. Rojas continues to operate as a mover.¹³ CI Potts requests that the matter be referred to the district court in an attempt to stop Mr. Rojas from operating as an unlicensed and uninsured mover.

21. CI Swint testified that he investigated Mr. Rojas in 2018 in connection with Proceeding No. 18G-0792HHG. He is familiar with two of the alias names and business names listed in Hearing Exhibit 114, including 24 Hour Small Moves.

¹² Hearing Exhibits 115 and 116.

¹³ Hearing Exhibits 119 and 119C.

22. During his 2018 investigation, CI Swint requested a copy of Mr. Rojas' identification from the Colorado Department of Motor Vehicles.¹⁴ CI Swint confirmed that the full legal name of Mr. Rojas is Margerto Joe Ralph Rojas and his address was 2112 West Custer Place, Denver, CO 80223.¹⁵ CI Swint testified that the address shown on Hearing Exhibits 116 and 116C is the same address on file with the Commission for Mr. Rojas at the time of his 2018 investigation. CI Swint provided the contact information to CI Potts to conduct his current investigations against Mr. Rojas.

III. ISSUE

23. Has Mr. Rojas violated Decision No. R24-0626?

IV. APPLICABLE LAW

24. As the proponent of a Commission order, Complainant has the burden of persuasion in this proceeding pursuant to 4 CCR 723-1-1500 of the Rules of Practice and Procedure.

25. Except as otherwise provided by statute, the Administrative Procedure Act imposes the burden of proof in administrative adjudicatory proceedings upon "the proponent of an order." § 24-4-105(7), C.R.S. As provided in Commission Rule 4 CCR 723-1-1500, "[t]he proponent of the order is that party commencing a proceeding." Here, Staff is the proponent since it commenced the proceeding through issuance of the CPAN and Staff bears the burden of proof by a preponderance of the evidence. *See*, § 13-25-127(1), C.R.S.; 4 CCR 723-1-1500.

26. The preponderance standard requires the finder of fact to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Dept. of Revenue*, 717 P.2d 507 (Colo. App. 1985). While the quantum of evidence that constitutes a

¹⁴ Hearing Exhibits 116 and 116C.

¹⁵ *Id.*

preponderance cannot be reduced to a simple formula, a party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party.

27. Rule 1508, 4 *Code of Colorado Regulations* (“CCR”), 723-1 allows the Commission broad power to order action when a person violates a Commission order. That rule states:

“Whenever it appears that a person engaged in, is engaging in, or is about to engage in any act or practice constituting a violation of any Commission order, rule, statute, or law affecting public utilities, the Commission may direct the Attorney General to bring an action in an appropriate court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and monetary penalties as provided in Article 7 of Title 40, C.R.S.”

28. Section 40-7-101, C.R.S., authorizes the Commission to request the attorney general to institute and prosecute actions or proceedings for the enforcement of the statutes of this state affecting public utilities. That statute states, in relevant part:

“Upon the request of the commission, the attorney general or the district attorney acting for the proper county or city and county shall aid in any investigation, hearing, or trial had under articles 1 to 7 of this title and institute and prosecute actions or proceedings for the enforcement of the constitution and statutes of this state affecting public utilities and persons subject to article 10.1 or 10.5 of this title and for the punishment of all violations thereof.”

V. **DISCUSSION**

29. The Respondent did not appear for the hearing on remand and therefore no defense presented to the alleged violations of the order arising from the decision issued in this proceeding.

30. By Decision No. R24-0646, Mr. Rojas was found to have violated §§ 40-10.1-107(1) and 40-10.1-502(1)(a), C.R.S., on April 11, 2024. He was ordered to immediately cease and desist further operation as a mover of household goods until such time as they have complied with all Colorado statutes and Commission rules governing such operation.

31. By Decision No. R25-0265, Mr. Rojas, being the same respondent in this proceeding, was found to have violated §§ 40-10.1-107(1) and 40-10.1-502(1)(a), C.R.S., on November 4, 2024. At that time, Mr. Rojas had not satisfied the requirements of Decision No. R24-0646. He obtained neither proper authorization to operate nor obtained and filed the required proof of insurance necessary to operate as a mover. These proven violations occurred while the order to cease and desist remained in effect.

32. The testimony of CI Potts and CI Swint was credible that the Respondent has engaged in activities violating the Commission's decision (as previously found by the Commission), including the cease and desist order.

33. The record in this remanded proceeding makes Mr. Rojas' disregard of this Commission and his responsibilities clear. He continues to operate as a mover illegally, resulting in harm to those entrusting him to move their goods. Substantial evidence demonstrates that Mr. Rojas has violated Decision No. R24-0646 issued in this proceeding.

VI. CONCLUSION

34. Mr. Rojas has violated the cease and desist orders issued on September 11, 2024, in this proceeding, and on April 9, 2025, in Proceeding No. 25G-0031HHG.

35. Pursuant to § 40-10.1-116, C.R.S., the undersigned ALJ requests the Attorney General of the State of Colorado to commence an action in the district court in and for the county or city and county in which the cause or some part thereof arose, or in which the motor carrier complained or maintains a principal place of business or resides.

VII. ORDER**A. The Commission Orders That:**

1. Margerto B. Rojas is in violation of Decision No. R24-0646, issued in Proceeding No. 24G-0194HHG on September 11, 2024, by operating as a mover on November 4, 2024, without having first complied with the requirements of Decision No. R24-0646.

2. The undersigned Administrative Law Judge requests the Attorney General of the State of Colorado to commence an action in the district court in and for the county or city and county in which the cause or some part thereof arose, or in which the motor carrier complained or maintains a principal place of business or resides.

3. 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.

4. 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.

5. 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

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director