

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION, BUREAU OF  
TRANSPORTATION  
AND SAFETY

Docket No. C-2010-2106030

v.

LAURIN FEGLEY  
T/A SIMPLY SMOOTH

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SECRETARY'S BUREAU

**SETTLEMENT AGREEMENT**

**Introduction**

The Parties to this Settlement Agreement (Agreement) are the Pennsylvania Public Utility Commission's Bureau of Transportation and Safety (BTS), P.O. Box 3265, Harrisburg, PA 17105-3265, and Lauren Fegley t/a Simply Smooth, 1524 W. Linden Street, Allentown, PA 18102 (Respondent). Respondent was issued a certificate of public convenience from the Public Utility Commission (Commission) on February 10, 2006, at A-00121178, to provide limousine transportation services to the public in the Commonwealth of Pennsylvania.

As a result of negotiations, the Parties have resolved their differences as encouraged by this Commission's policy to promote settlements. *See* 52 Pa. Code §5.231 ("It is the policy of the Commission to encourage settlements.") The duly authorized Parties signing below agree to the settlement terms set forth herein and urge the Commission to approve them as being in the public interest.

### Procedural History

1. On February 1, 2010, the Bureau of Transportation filed a Complaint with the Commission at Docket No. C-2010-2106030 averring that Laurin Fegley t/a Simply Smooth on May 2, 2009, permitted a 2007 Dodge limousine to be operated in Lackawanna County, Pennsylvania. Said vehicle was inspected by Enforcement Officer Supervisor Andrew Turriziani.
2. The Complaint averred that the inspection revealed three violation of the Public Utility Code, including: (1) no certificate number listed on the trip sheet in violation of 52 Pa. Code § 29.335(a)(2); (2) an expired Pa. inspection decal in violation of 52 Pa. Code §29.405; and (3) that the carrier was transporting 12 passengers in a vehicle which only seated 10 thus creating an unsafe accommodation in violation of 66 Pa. C.S. § 1501.
3. BTS requested the Commission invoke a penalty of \$800.
4. In response, on February 15, 2010, Laurin Fegley, proprietor of Simply Smooth, requested reconsideration of the penalty and averred that the inspection sticker had only expired by 2 days, and he offered evidence to show the vehicle was properly inspected currently. He further denied the vehicle was carrying 12 passengers on the night in question. Rather, he stated it hosted only 10. Finally, he claimed the certificate number is posted on all correspondence related to its services. Unfortunately, the driver had an e-mailed copy of information with him the evening in question and not the original trip sheet as the run was booked at the last minute.

## Settlement Agreement

5. BTS, through its counsel, and Laurin Fegley t/a Simply Smooth conducted settlement negotiations concerning the instant Complaint, which negotiations culminated in this Agreement.
  
6. Laurin Fegley t/a Simply Smooth agrees to pay \$400 pursuant to 66 Pa. C.S. §3301(a) to resolve, through this Agreement, the violations addressed in BTS' Complaint. This payment shall be made in its entirety within 30 days of the date that this Agreement is finally approved by the Commission. The check shall be made payable to: "Commonwealth of Pennsylvania," addressed to : Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Laurin Fegley t/a Simply Smooth also agrees to comply with the Public Utility Code and agrees that any future violations of these statutory provisions shall also be a violation of this Agreement.
  
7. This Agreement is subject to all applicable administrative and common law treatments of settlements, settlement offers, and/or negotiations. This Agreement is expressly conditioned upon the Commission's approval under applicable public interest standards without modification, addition, or deletion of any terms or conditions herein. Accordingly, this Agreement is made without any admission against or prejudice to any position which any Party might adopt during litigation of this case if this settlement is rejected by the Commission or withdrawn by any of the parties as provided below. This Agreement is, therefore, a compromise and is conditioned upon the Commission's approval of all the terms and conditions contained herein without modification or amendment. If the Commission fails to approve by tentative or final order this Agreement, or any of the terms or conditions set forth herein, without modification, addition, or deletion, then either

Party may elect to withdraw from this Agreement by filing a response to the tentative or final order within 15 days of the date that the tentative or final order is entered. None of the provisions of this Agreement shall be considered binding upon the Parties if such a response is filed.

8. This document represents the settlement in its entirety. No changes to obligations set forth herein may be made unless they are in writing and are expressly accepted by the Parties involved. This Agreement shall be construed under Pennsylvania law.
9. In the event that the Commission does not approve this settlement or should modify the terms and conditions herein, this settlement may be withdrawn by a party upon written notice to the Commission and all Parties within three (3) business days of receipt of the Commission's Order. In such withdrawal event, this settlement shall be of no force and effect. If the proceeding continues to hearing, the Parties reserve their respective rights to submit testimony and to conduct full-cross-examination, briefing and argument, and to take, without prejudice, positions different from the terms of this settlement.
10. Nothing contained in this Agreement may be used or construed by any person as an admission of any fact or liability by Respondent. This Agreement is proposed by the Parties without any admission against, or prejudice to, any position which any Party may adopt during any subsequent administrative or court proceeding of whatever nature.
11. As a result of this settlement, Law Bureau and the Commission will not refer this matter to any other agency or entity for further action.

## Statement in Support of Settlement

1. This settlement is in the public interest for reasons which include the following:
  - a. Laurin Fegley t/a Simply Smooth's commitment to comply with the Public Utility Code.
  - b. Avoidance of significant time, expense, and delay involved in full *litigation of the matter*.
  - c. The conduct at issue involves administrative error and Simply Smooth had the vehicle inspected shortly after the incident. Further, Simply Smooth contends that it is its policy to not carry more passengers in a vehicle than there are seatbelts for passengers. It will instruct its drivers to comply with the vehicle's capacity limitations. Simply Smooth avers it will comply with posting its PUC certificate number on all correspondence related to its services.
  - d. No one was injured as a result of any action by Simply Smooth.
  - e. Simply Smooth is a small business, and a civil penalty of \$400 is sufficient deterrent for the company to violate the Public Utility Code in the future.
  - f. Standards as set forth in *Rosi v. Bell Atlantic-Pennsylvania, Inc. and Sprint Communications Company, L.P.*, C-00992409 (Order entered March 16, 2000) and later the *Final Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations*, 37 Pa.B. 6755, December 22, 2007, Docket No. M-00051875 have been applied to the instant cases facts, and a reduction in penalty of \$800 to \$400 against Laurin Fegley t/a Simply Smooth's Certificate of Public Service is reasonable given Respondent's

willingness to work with Commission staff and its assurances that there will be no future violations.

- g. Respondent has no prior record of violations and is taking action to ensure a violation will not occur in the future.

WHEREFORE, because the Agreement addresses and remedies all allegations raised in this matter, the Law Bureau and request that the Commission adopt an order approving the terms of this Agreement as being in the public interest.

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
BUREAU OF TRANSPORTATION

Elizabeth H. Barnes

Dated: 6/2/10

Elizabeth H. Barnes  
Assistant Counsel

LAURIN FEGLEY T/A SIMPLY SMOOTH

[Signature]

Dated: 7/1/10

Laurin Fegley, Proprietor