



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 26, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Transportation and
Safety v. Robert Levan t/a Nite Moves
Docket No. C-2009-2070216

Dear Secretary Chiavetta:

Enclosed please find an original and three (3) copies of an Application for
Issuance of Subpoena on behalf of the Bureau of Transportation and Safety. Copies have
been served in accordance with the Certificate of Service.

Very truly yours,

Stephanie M. Wimer
Assistant Counsel

Enclosures

cc: per certificate of service

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SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, BUREAU OF	:	
TRANSPORTATION AND SAFETY	:	
	:	Docket No. C-2009-2070216
v.	:	
	:	
ROBERT LEVAN	:	
t/a NITE MOVES	:	

APPLICATION FOR ISSUANCE OF SUBPOENA

AND NOW comes the Pennsylvania Public Utility Commission's (Commission's) Bureau of Transportation and Safety (BTS),¹ pursuant to 52 Pa. Code § 5.421, and files the following Application for Issuance of a Subpoena, and in support thereof avers as follows:

1. On March 6, 2009, BTS issued a complaint against Robert Levan t/a Nite Moves (Respondent) alleging that Respondent held himself out to transport household goods in use between points in the Commonwealth of Pennsylvania, for compensation in violation of 66 Pa. C.S. § 1101.
2. The complaint alleges that Respondent offered to transport the household goods of Mr. Bradley Stiles, the shipper, at the rate of \$130 per hour on September 27, 2008.

¹ Effective August 11, 2011, the Bureau of Investigation and Enforcement became the successor to BTS' motor carrier enforcement division. *See Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011).

3. On March 24, 2009, Respondent, represented by counsel, filed a timely Answer to the Complaint. In his Answer, Respondent denied that he held himself out to transport household goods in use for compensation. Respondent maintains that he merely agreed to provide a pack and load service.

4. By notice of hearing dated August 25, 2011, an initial hearing is scheduled before Administrative Law Judge (ALJ) Dennis J. Buckley on September 15, 2011.

5. At the hearing, BTS has the burden of proving that Respondent held himself out to transport the household goods of Mr. Bradley Stiles for compensation.

6. On September 27, 2008, Mr. Bradley Stiles submitted a written statement to BTS, which indicated that Respondent verbally contracted with him to move his furniture at the rate of \$130.00. Mr. Stiles' statement also indicates that Respondent agreed to obtain a truck from Budget rental to perform the move.

7. BTS is requesting that the Commission issue a subpoena to Mr. Bradley Stiles, the shipper, so that BTS may obtain testimony regarding Respondent's offer to transport the shipper's household goods for compensation. BTS also seeks to enter Mr. Stiles' written statement into evidence.

8. The testimony of Mr. Stiles is relevant and material in this matter.

9. A response or objection to this Application must be filed with the Commission and ALJ Dennis J. Buckley within ten (10) days of the service of this Application.

10. A proposed subpoena is attached to this Application as Exhibit "A."

WHEREFORE, BTS requests that the Subpoena be issued compelling Mr. Bradley Stiles to attend the initial hearing scheduled on September 15, 2011.

Respectfully submitted,



Stephanie M. Wimer
Attorney ID #207522
Counsel for Pennsylvania Public Utility
Commission, Bureau of Transportation
and Safety

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: August 26, 2011

CERTIFICATE OF SERVICE

C-2009-2070216

I hereby certify that I am this day serving a true copy of the foregoing document, Application for Issuance of Subpoena, upon the persons listed and in the manner indicated below:

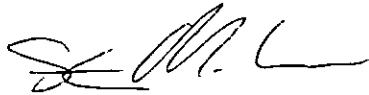
Service by First Class Mail:

Dennis J. Buckley
Administrative Law Judge
Pa Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Robert Levan
t/a Nite Moves
1450 Lehigh Avenue
Allentown, PA 18103

Charles E. Shoemaker, Jr.
Law Offices of Charles E. Shoemaker
Jr.
727-729 North 19th Street
Allentown, PA 18104-4040

Bradley Stiles
8667 Lockwood Road
Breinigsville, PA 18031



Stephanie M. Wimer
Attorney ID #207522
Counsel for Pennsylvania Public Utility
Commission, Bureau of Transportation and
Safety

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: August 26, 2011

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EXHIBIT A



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Docket No. C-2009-2070216

Pennsylvania Public Utility Commission,
Bureau of Transportation and Safety

v.

Robert Levan t/a Nite Moves

SUBPOENA

To: Bradley E. Stiles, 8667 Lockwood Road Breinigsville, PA 18031
(Name and Address)

Pursuant to the authority of this Commission under §§309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Hearing Room 4,
Plaza Level, Commonwealth Keystone Building, 400 North Street, at Harrisburg
Pennsylvania, on September 15, 2011, at 10:00 o'clock, in the above case, to testify
(date)
on behalf of the Bureau of Transportation and Safety and to remain until excused;

2. And bring with you and produce the following: any contracts, agreements or
correspondence between you and Robert Levan t/a Nite Moves regarding the household goods in
use move that occurred on September 27, 2008.

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date _____

Dennis J. Buckley
Administrative Law Judge

Commonwealth of Pennsylvania)
) SS:
Count of)

AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared _____
who, being duly sworn according to law, deposes and says that he/she served a true and correct
copy of the within SUBPOENA upon _____
by handing the same to him/her at _____ on the
_____ day of _____, 20__ at _____ a.m./p.m.

(Signature)

Sworn to and subscribed before me
this _____ day of _____, 20__

Notary Public