



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

IN REPLY PLEASE
REFER TO OUR FILE
C-2012-2330883

February 13, 2013

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

Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. Rodney P. Andrews t/a Classic Limousines
Docket No. C-2012-2330883

Dear Secretary Chiavetta:

Enclosed for filing is an original copy of the Motion for Default Judgment of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-captioned matter. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

Stephanie M. Wimer
Prosecutor
Attorney I.D. No. 207522

Enclosure

cc: As per certificate of service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement
Complainant

v.

Rodney P. Andrews t/a Classic Limousines
Respondent

Docket No. C-2012-2330883

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §5.103, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) has filed a Motion for Default Judgment in the above-captioned matter. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with Commission procedural regulations at 52 Pa. Code §5.61.

Your Answer must be verified and the original and three (3) copies sent to:

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

Additionally, you must serve a copy on:

Wayne T. Scott
First Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105

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Stephanie M. Wimer
Prosecutor
Attorney I.D. 207522

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 772-8839

Dated: February 13, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	Docket No. C-2012-2330883
v.	:	
	:	
Rodney P. Andrews t/a Classic Limousines	:	
Respondent	:	

MOTION FOR DEFAULT JUDGMENT

NOW COMES the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E"), by its counsel, and files this Motion for Default Judgment against Rodney P. Andrews t/a Classic Limousines ("Respondent") pursuant to Section 5.103 of the Commission's regulations, 52 Pa. Code §5.103. In support thereof, I&E respectfully represents as follows:

1. I&E commenced this action on October 25, 2012, by filing a Complaint and serving it by first class mail to Respondent at 34031 West Superior Avenue, Tonopah, AZ 85354-7569.
2. In addition, by Secretarial Letter dated October 25, 2012, the Commission's Secretary's Bureau served I&E's Complaint by certified mail to Respondent at 34031 West Superior Avenue, Tonopah, AZ 85354-7569.
3. 34031 West Superior Avenue, Tonopah, AZ 85354-7569 is the last known mailing address that Respondent provided to the Commission to be used for assessment related matters.
4. The Complaints were not returned to the Commission.
5. However, Respondent did not sign for receipt of the certified mail.

6. Out of an abundance of caution, I&E published the Complaint in the Pennsylvania Bulletin pursuant to the Commission's procedural regulations. 52 Pa. Code §1.53(e)(related to Service by the Commission).
7. The Complaint was published in the Pennsylvania Bulletin on January 19, 2013. 43 Pa. Bull. 402 (January 19, 2013).
8. I&E submits that Respondent was provided with adequate notice of the violations in I&E's Complaint.
9. In addition to publication of the Complaint in the Pennsylvania Bulletin, I&E mailed the Complaint to Respondent by first class mail.
10. When a document is sent to an address via first class mail, there is a reasonable presumption that the document was delivered if there is no return of the document by the United States Post Office. See *Berkowitz v. Mayflower Securities, Inc.*, 317 A.2d 584 (1974); *Meierdierck v. Miller*, 147 A.2d 406 (1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. Ct. 1997); *Judge v. Celina Mutual Insurance Co.*, 449 A.2d 658 (Pa. Super. Ct. 1982).
11. Included with the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days.
12. The Notice also advised Respondent that if it failed to answer the Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Complaint.
13. Respondent's Answer was due on or before February 8, 2013, which was twenty (20) days after publication of the Complaint in the Pennsylvania Bulletin.
14. Respondent did not file an Answer to the Complaint.
15. Pursuant to Section 5.61(c) of the Commission's regulations, a Respondent who fails to file an Answer to a Complaint within the 20-day response period may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code §5.61(c).
16. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. See *Fusaro v. Pa. PUC*, 382 A.2d 794, 797 (Pa. Cmwlt. 1978).
17. In the Complaint, I&E alleged that Respondent failed to pay its assessment for several fiscal years and owes \$10,876.67.

18. I&E also alleged that Respondent failed to file assessment reports for several years.
19. I&E proposed a civil penalty of \$2,630 for Respondent's failure to file assessment reports and timely pay its assessment.
20. Respondent has not paid the outstanding assessment amount or civil penalty that was requested in the Complaint.
21. WHEREFORE, I&E respectfully requests that the Commission enter a Default Order against Respondent that:
 - a. Orders Respondent to pay its outstanding assessment and civil penalty;
 - b. Cancels Respondent's *certificate of public convenience*;
 - c. Notifies Respondent that a copy of this Order will be sent to the Pennsylvania Department of Transportation for the suspension or revocation of vehicle registrations that were used under Respondent's operating authority; and
 - d. Directs the Bureau of Administrative Services, Assessment Section to refer the matter to the Pennsylvania Office of Attorney General for collection of the unpaid assessments.

Respectfully submitted,



Stephanie Wimer
Prosecutor
Attorney ID # 207522
Bureau of Investigation and Enforcement

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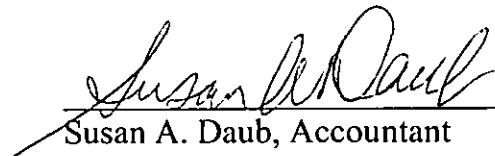
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Date: February 13, 2013

VERIFICATION

I, Susan A. Daub, Accountant, Bureau of Administrative Services, Assessment Section, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: February 13, 2013



Susan A. Daub, Accountant
Assessment Section
Bureau of Administrative Services
PA. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing Motion for Default Judgment in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a party).

Service by First Class Mail:

Rodney P. Andrews, President
Rodney P. Andrews t/a Classic Limousines
34031 West Superior Avenue
Tonopah, AZ 85354-7569



Stephanie M. Wimer
Prosecutor
Attorney I.D. No. 207522

Counsel for the Bureau of
Investigation and Enforcement,
Pennsylvania Public Utility
Commission

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

Dated: February 13, 2013

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