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May 16, 2013

Re: Pennsylvania Public Utility Commission,
Bureau of Transportation and Safety v.
Lou Lane, Inc., t/d/b/a All Star Limousines
Docket No. C-2011-2230353

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

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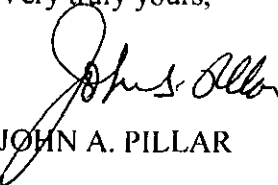
Dear Secretary Chiavetta:

I am enclosing for filing the signed original Brief for Respondent, Lou Lane, Inc., t/d/b/a All Star Limousines, in connection with the above-docketed proceeding.

In accordance with the Certificate of Service, copies have been served on counsel of record as well as the Administrative Law Judge assigned to this case.

Please acknowledge receipt of the original Brief on the duplicate of this transmittal letter enclosed and return it in the stamped, self-addressed envelope provided. Thank you.

Very truly yours,


JOHN A. PILLAR

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Enclosures

cc: Hon. Mary D. Long, Administrative Law Judge (w/encl.)
Stephanie M. Wimer, Counsel, Bureau of
Investigation & Enforcement (w/encl.)
All Star Limousines (w/encl.)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,)
Bureau of Transportation and Safety v.) Docket No. C-2011-2230353
Lou Lane, Inc., t/d/b/a All Star Limousines)

**BRIEF FOR RESPONDENT, LOU LANE, INC.,
t/d/b/a ALL STAR LIMOUSINES**

JOHN A. PILLAR
Attorney for
LOU LANE, INC., t/d/b/a
ALL STAR LIMOUSINES,
Respondent

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Due Date: May 20, 2013

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission,)
Bureau of Transportation and Safety v.)
Lou Lane, Inc., t/d/b/a All Star Limousines)

Docket No. C-2011-2230353

I. STATEMENT OF THE CASE

The Complaint filed by the Pennsylvania Public Utility Commission (hereinafter Commission or PUC), through its Bureau of Transportation and Safety, alleges that Lou Lane, Inc., t/d/b/a All Star Limousines (All Star or Respondent) failed to pay its assessment of \$12,358.00 for the fiscal year ending June 30, 2011, and that it owes the Commission the sum of \$9,770.67 as a balance for the total assessment of \$14,656.00 owed for the fiscal year ending June 30, 2010. Respondent filed an answer admitting that it owes the sum of \$12,358.00 for the fiscal year ending June 30, 2011, but that it made two payments in the calendar year 2011 toward the assessment due for the fiscal year ending June 30, 2010, and that the balance owed for that fiscal year is \$4,885.34. At the hearing in connection with this complaint proceeding, counsel for the Bureau of Transportation and Safety agreed to amend its complaint by reducing the amount of the claim for the fiscal year ending June 30, 2010 to \$4,885.34.

The hearing on this complaint was held on March 21, 2013, in Pittsburgh. The Commission presented one witness, namely Susan Daub, who is an accountant for the Bureau of Investigation and Enforcement. Ms. Daub confirmed that the total amount owed by Respondent for the fiscal year ending June 30, 2010 is \$4,885.34, and the total amount owed for the fiscal year ending June 30, 2011 is \$12,358.00. Respondent presented the testimony of Louis Weiner,

the President and sole owner of Respondent, and Alex Kindler, a certified public accountant. Respondent contends that the essential and pertinent facts are not in dispute. Respondent presented evidence that it providing an outstanding level of service notwithstanding the fact that it is in precarious financial condition. Respondent's owner testified that Respondent can and will pay the total amount of its assessment for the fiscal years ending June 30, 2010 and June 30, 2011, but that it needs an accommodation of time to make payments so that its business can continue to function and serve the public.

II. STATEMENT OF THE QUESTIONS PRESENTED

1. Does the Commission have the power to permit the payment of past due assessments in installments over a reasonable period of time where extraordinary circumstances prevent the Respondent from paying its past due assessment in a lump sum payment?

Respondent submits that there is legal precedent to allow payment of past due assessments in installments.

2. The second question presented is whether extraordinary circumstances exist that would create undue hardship and burden on the Respondent to pay its past due assessment in a lump sum.

Respondent submits that such extraordinary circumstances do exist based on the facts of record which are not in dispute.

III. REQUESTED FINDINGS OF FACT

Respondent respectfully requests that the following findings of fact be adopted by the Administrative Law Judge.

1. The Commission granted Respondent permission to pay its assessment for the 2009-2010 fiscal year in three installments (NT 9; 13-14).¹

2. Respondent made two payments toward the 2009-2010 assessment in the amounts of \$4,885.33 and \$4,885.34 (NT 15).

3. Respondent did object to its 2010-2011 fiscal year assessment invoice, which objection was later withdrawn by Respondent (NT 15-16).

4. Louis Weiner purchased the current business known as All Star Limousines in 2002 and has been continuously in business since that time (NT 23).

5. The original office located on Saw Mill Run Boulevard in Pittsburgh at the time of purchase was relocated by Mr. Weiner to its current address at 910 Brownsville Road, Pittsburgh in order to reduce its overhead (NT 22-24).

6. All Star employs 25 drivers, a detailer, a part-time mechanic and 4 office staff (NT 25).

7. All Star operates 25 vehicles, including Lincoln sedans, corporate SUVs, a standard Suburban-type vehicle, 3 black stretch limousines, 4 passenger vans, a mini-coach and 2 limo buses (NT 25).

8. All Star is available for business 24 hours a day, 7 days a week, including holidays (NT 26).

¹ NT refers to notes of transcript.

9. Mr. Weiner paid a total of \$950,000.00 when he purchased the company, including \$250,000.00 advanced from his own funds; the balance was financed over a period of years (NT 26).

10. The original term of the loan from PNC Bank was 10 years, but it has been restructured and extended in an effort to enable the Respondent to maintain sufficient cash flow (NT 26-27).

11. Mr. Weiner is 52 years of age and a life long Pittsburgh resident, and expects to continue in the limousine business indefinitely (NT 27).

12. Due to financial constraints, All Star relocated its business to its current location, which reduced monthly rent. The acting General Manager of the business was let go and 3 additional office personnel were laid off. The detailing staff was reduced to one person (NT 28).

13. All Star is continuously seeking ways to grow its business and increase its revenues while reducing costs, including seeking avenues to convert its vehicles to natural gas to save on fuel expense (NT 28).

14. Mr. Weiner, in addition to being President of the company, washes cars, drives limousines and works a 12 to 16 hour day (NT 28).

15. Prior to 2008, the amount of assessments billed to All Star was between \$3,000.00 and \$4,000.00 per year based on revenues of approximately \$900,000.00 (NT 30).

16. All Star's revenues are about twice as much as they were prior to 2008, but the amount of the recent assessments are four times higher than assessments in prior years (NT 30-31).

17. In 2008 and 2009, All Star did not receive any assessment invoice from the Commission due to the fact that carriers registered under the Unified Carrier Registration Act were considered exempt (NT 31).

18. All Star made two payments of \$10,000.00 toward its fiscal year 2012-2013 assessment pursuant to an agreement reached with the Commission to pay these assessments in installments. A final installment of approximately \$11,000.00 is to now due (NT 32).

19. All Star has offered to pay off the current assessment, which is the subject of this complaint case, in 12 monthly installments of \$1,436.91 (NT 33).

20. All Star has experienced economic difficulties due to the price of gas, taxes, the cost of doing business and the competitive nature of the limousine business; it had no prior knowledge that its assessments, beginning in 2010, were going to quadruple (NT 39).

21. Alex Kindler is a partner at Horovitz Rudoy & Roteman, certified public accountants in Pittsburgh (NT 40-41).

22. Mr. Kindler and his company have been the accountants for All Star for a number of years and Mr. Kindler assisted Mr. Weiner in purchasing the company (NT 41).

23. Mr. Kindler sponsored Respondent's Exhibit 1 to which there are attachments referred to in the Exhibit in preparation for testifying at this hearing (NT 42).

24. Mr. Kindler testified that All Star is profitable but not profitable enough to pay all of its current expenses in a timely manner (NT 43).

25. All Star is current on its day to day business obligations and has been for the last 3 to 4 months and is slowly paying off outstanding payables (NT 43).

26. All Star has refinanced some of its current liabilities so as to extend them to long-term liabilities; vehicle obligations have been extended (NT 44).

27. All Star's income statement shows a net income for the past year of \$101,000.00 and All Star has been able to decrease its long-term liabilities from in the past year by \$116,000.00, an approximate 25% reduction in debt (NT 46).

28. All Star does a good job of preventive maintenance to its vehicles to keep its cars on the road as long as possible (NT 46).

29. All Star is paying off vehicles it purchased in the past 3 to 4 years and when these vehicles are paid off, the company will have additional cash available (NT 46-47).

30. All Star has tax liability to the United States Treasury and recently finalized a payment schedule with the Internal Revenue Service (NT 47).

31. All Star has made many cost cutting initiatives, but cutting further costs in order to immediately pay assessments due would prevent it from maintaining the level of service necessary to satisfy its customers (NT 48-49).

32. In Mr. Kindler's opinion, Mr. Weiner, as an owner, has made an effort to make this company responsive and viable and the company has an excellent reputation (NT 49).

IV. ARGUMENT

The Commission's power to assess regulated carriers derives from §510 of the Public Utility Code, 66 Pa. C.S. §510. Sections 510(a) and (b) deal with the determination and allocation of assessments among the various public utilities. Section 510(c) provides for the right of a public utility to object to an assessment, including the right to a hearing and an adjudication of the assessment by the Commission. Section 510(d) provides legal authority for the Commission to take legal action against a public utility for failure to pay an assessment.

Extraordinary relief was granted to allow passenger carriers to pay assessments in installments in Petition for Emergency Relief of the Pennsylvania Taxi & Paratransit Association, Docket P-2008-2013624. The Pennsylvania Taxi & Paratransit Association requested emergency relief from the Commission due to the fact that in 2008, most of its members received annual assessments from the Commission that were approximately 320% higher than the assessments received in prior years. Due to the financial hardship on its members, Chairman Wendell F. Holland issued an emergency order granting relief to all carriers in the Association and permitting payments of their 2007-2008 fiscal year assessments in three installments over a period of six months.

Similar relief was granted in A Limousine Service, Inc. Objection to General Assessment for the Fiscal Year July 1, 2009 to June 30, 2010, Docket M-2010-2156075, 2010 Pa. P.U.C. Lexis 1106 (2010) and in Classy Cab, Inc., Objection to General Assessment for the Fiscal Year July 1, 2009 to June 30, 2010, Docket No. M-2010-2156212, 2010 Lexis 1970 (2010). In both of these cases relief was granted for reasons similar to the basis for Commissioner Holland's decision in Petition for Emergency Relief of the Pennsylvania Taxi & Paratransit Association, supra. Both A Limousine Service, Inc. and Classy Cab, Inc. were assessed significantly higher assessments than in prior years to which objections were filed and in both cases the Commission determined that the objections should be denied. However, both carriers were granted a period of seven months to pay their assessments in installments.

In Bureau of Transportation and Safety, Public Utility Commission v. Penn-Harris Taxi Service Co., Docket A-00002450C9801, 1998 Pa. P.U.C. Lexis 153 (1998), Penn-Harris Taxi requested relief in paying its outstanding assessment of \$35,029.00. An Administrative Law Judge recommended that the assessment be paid in ten installments of \$3,500.00, beginning in

June of 1998 (the hearing had been held on May 28, 1998). The Bureau of Transportation and Safety objected and filed exceptions. The key determination of the Commission is that §510 of the Code did not apply to past due assessments. It held that §510(c) is not to be read as being concerned with the enforcement of assessments that have been delinquent. The Commission held that the burden is on the delinquent utility to demonstrate that there are extraordinary circumstances which prevented it from paying its assessment in a timely manner and that if such extraordinary circumstances exist, the Commission has the power to permit installment payments. The Commission held (1998 Pa. Lexis 153, at page 2):

We draw our authority from a variety of statutes. Section 501 of the Code confers on the Commission general powers by which the Commission can accomplish its statutory mandate. Section 502 of the Code is specifically concerned with enforcement proceedings. Sections 701 through 703 of the Code are concerned with complaint proceedings. Finally, Section 3301 of the Code, 66 Pa. C.S. §3301 et seq., specifically empowers the Commission to impose civil penalties for violations of the statute or the Commission's regulations consistent with due process.

While the Commission held that Penn-Harris Taxi Service had not presented sufficient evidence of extraordinary circumstances which prevented it from paying its assessment in a timely manner, it is clear that the Commission considered the extraordinary circumstances, or lack thereof, in coming to its decision to require Penn-Harris to pay in a lump sum. See also, Bureau of Transportation and Safety of the Pennsylvania Public Utility Commission v. Venco Trucking, Inc., Docket No. A-00083875C9801, 1998 Pa. P.U.C. Lexis 204, in which Administrative Law Judge Debra Paist clearly considered Venco's evidence of financial hardship in determining whether Venco should be granted relief by paying its assessment in installments. Judge Paist did not hold that such relief was not within the Commission's authority.

V. CONCLUSION AND PRAYER FOR RELIEF

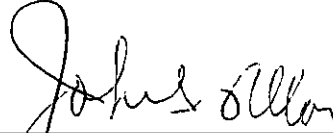
VI.

All Star has experienced financial difficulties in recent years due to higher costs of operation, an increase in taxes, and a burdening debt service dating back to when the company was purchased by Mr. Weiner. In addition, the Commission has quadrupled the assessment All Star had been billed prior to 2008. Respondent has made extraordinary efforts to get its financial house in order. If it is not granted some relief from being required to pay the total amount due of \$17,243.34 in full within 30 days as demanded by the Law Burear, it could be forced to close its business to the detriment of its employees and its many customers who have come to rely on All Star's services. This would be contrary to the public interest. The history of numerous assessment appeals by many passenger carriers in the past four years shows that higher assessments imposed by the Commission have created hardships on carriers causing them to appeal assessments for being excessive. These hardships have been exacerbated in the case of All Star due to its particular financial difficulties.

All Star requests that it be granted some additional time to pay its outstanding assessment. It has proposed to pay the sum of \$1,436.94 in 12 monthly installments. The business of the Commission will not be impaired by this payment schedule and All Star believes it will be able to maintain its level of reliable service to the public.

There is legal precedent for granting such relief in a case where extraordinary circumstances exist. Such extraordinary circumstances do exist here. Respondent prays that the relief requested is granted.

Respectfully submitted,



JOHN A. PILLAR
Attorney for Lou Lane, Inc., t/d/b/a
All Star Limousines

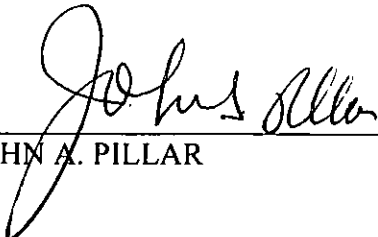
CERTIFICATE OF SERVICE

John A. Pillar, Esq., hereby certifies that on the 16th day of May, 2013, he did serve a true and correct copy of the within **Brief for Respondent, Lou Lane, Inc., t/d/b/a All Star Limousines**, on the following by first-class mail, postage prepaid, and via e-mail:

Hon. Mary D. Long, Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222

Stephanie M. Wimer, Counsel
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
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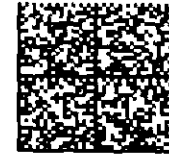
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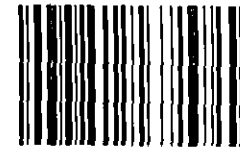
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