



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

IN REPLY PLEASE
REFER TO OUR FILE

July 31, 2013

Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
2nd Floor, 400 North Street
P.O. Box 3265
Harrisburg, PA 17105

**RE: Settlement Agreement between Pennsylvania Public Utility
Commission Bureau of Investigation and Enforcement v. Jadco
Enterprises d/b/a/ Sterling Limousine Service; C-2012-2302456**

Dear Secretary Chiavetta:

The Bureau of Investigation and Enforcement has entered into a Formal Settlement Agreement in the above captioned proceeding.

The Commission's regulations at 52 Pa. Code § 5.232 empower a participant in a formal Commission proceeding to file an executed Settlement Agreement with your office provided that a Commission Administrative Law Judge has not been assigned to hear the case.

Please accept for filing an original Settlement Agreement for appropriate disposition by the Commission.

If you have any questions on this matter, please call me at 717-214-9594.

Sincerely,

Heidi L. Wushinske
Prosecutor

Cc: Per certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY :
COMMISSION, BUREAU OF :
INVESTIGATION AND ENFORCEMENT :**

v.

**JADCO ENTERPRISES INC. DBA/ :
STERLING LIMOUSINE :**

**Docket No.
C-2012-2302456**

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SETTLEMENT AGREEMENT

THIS AGREEMENT is between the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement ("I&E") through Prosecutor Heidi L. Wushinske, and Jadco Enterprises Inc. dba/Sterling Limousine ("Sterling" or "Respondent") in the above-captioned proceeding. In pursuance of this Agreement, I&E and Respondent stipulate as follows:

I. Background and Summary of Proceedings

1. The parties to this Settlement Agreement are the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, P.O. Box 3265, Harrisburg, PA 17105-3265, and Respondent, Sterling, who maintains its principle place of business at 2288 Second Street Pike, Suite 2, Wrightstown, PA 18940.

2. On the date of the violation alleged in this complaint, Respondent held a certificate of public convenience issued by this Commission. Respondent was issued a Certificate on February 11, 2003, at A-00119348.

3. Pursuant to its enforcement responsibilities, I&E initiated the above-captioned complaint against Respondent.

4. On March 14, 2012, PUC Enforcement Officer Harrison performed an inspection at Respondent's premises.

5. Based on Officer Harrison's inspection, I&E alleged the following:

- a. that Respondent permitted a 2003 Lincoln Limo, PA LM23348, to be operated as limousine;
- b. that Respondent permitted a 2003 Lincoln Limo, PA LM23326, to be operated as a limousine;
- c. that Respondent, in performing the acts described in paragraph 5, violated the Public Utility Commission's regulations, 52 Pa. C.S. § 29.333(e), by operating a limousine more than 8 model years old.

6. I&E requested that the Commission fine Respondent a total of \$1000.00 as a result of these violations. On May 23, 2012, Respondent filed a timely answer to the complaint. Respondent stated that one of the vehicles at issue was used by accident one weekend when another limousine was out of service. Respondent further replied that it did not use the second vehicle.

II. Settlement terms

7. I&E and Respondent, intending to be legally bound and for consideration given, desire to conclude this litigation and agree to stipulate to the following terms:

A. In recognition of the cost of further litigation, the time and expense of holding a hearing, and the merits of the parties' respective positions, the parties have entered into negotiations and have agreed to settle the complaint according to the terms and conditions set forth herein.

B. Respondent acknowledges that operating a limousine more than 8 model years old violates the Public Utility Commission's regulations, 52 Pa.C.S. § 29.333(e). Respondent therefore agrees to pay a civil penalty in the amount of \$500.00 within sixty days of approval of this Settlement Agreement. Payment shall be sent to:

Heidi Wushinske
Prosecutor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

C. Respondent agrees that it will comply with the Public Utility Code and the Commission's regulations and orders in the future and take appropriate steps to alleviate future misconduct and/or noncompliance with the Public Utility Code and the Commission's regulations and orders.

III. Joint Statement in Compliance with the Commission’s Policy Statement on Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations

8. The parties acknowledge that approval of this Settlement Agreement is consistent with the Commission’s *Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations* (“Policy Statement”), 52 Pa. Code § 69.1201; *See also Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, C-00992409 (March 16, 2000).

9. Under the Policy Statement, the Commission will consider specific factors when evaluating settlements of alleged violations of the Public Utility Code and the Commission’s Regulations. These factors are: (i) Whether the conduct at issue was of a serious nature; (ii) Whether the resulting consequences of the conduct at issue were of a serious nature; (iii) Whether the regulated entity made efforts to modify internal policies and procedures to address the conduct at issue and prevent similar conduct in the future; (iv) The number of customers affected and the duration of the violation; (v) The Compliance history of the regulated entity that committed the violation; (vi) Whether the regulated entity cooperated with the Commission’s investigation; (vii) The Amount of the civil penalty or fine necessary to deter future violations; (viii) Past Commission decisions in similar situations; and (ix) other relevant factors. 52 Pa. Code § 69.1201(c).

10. The Commission will not apply the standards as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors and standards may still be considered, in settled cases the parties “will be afforded flexibility

in reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest.” 52 Pa. Code § 69.1201(b).

11. The first factor considered in this case was whether Respondent’s alleged acts and omissions amounted to willful fraud or misrepresentation, or were merely administrative or technical errors. The alleged conduct in this case involves operating limousines more than 8 model years old. Respondent asserts that this limousine was used by accident on a weekend when another limousine was out of service. Therefore, Respondent’s operation of the limousine over the age limit appears to be an error.

12. The second factor considered in this case was whether the resulting consequences of Respondent’s alleged actions or omissions were of a serious nature. In this case, Respondent’s alleged conduct did not result in any consequences. Although, there is the potential for danger where an older vehicle is used in limousine service, in this case, the vehicle was used without incident. Furthermore, the limousine at issue was only one year over the age requirement and was only used for one trip.

13. The third factor to be considered in this case, namely, whether Respondent’s alleged conduct was intentional or negligent, does not apply to the present case because this proceeding is a settled matter. To the extent this factor is to be considered, it appears that Respondent’s conduct was negligent in nature.

14. With regard to the fourth standard in the Commission’s Policy Statement, whether the entity made efforts to modify internal policies and procedures to address the alleged conduct at issue and to prevent similar conduct in the future, Respondent has

since sold the vehicles at issue in this complaint. The conduct at issue has been acknowledged and corrected by the Respondent.

15. The fifth standard in the Policy Statement deals with the number of customers affected and the duration of the violation. In this case, no customers were affected. Although Respondent admits that one over-age limousine was used by accident for one trip, the customer did not experience any service problems related to the over-age limousine.

16. The Policy Statement's sixth standard is a consideration of the compliance history of the entity. Respondent has held a certificate from this Commission since 2003. Respondent has a strong history of compliance with the Commission's safety regulations and compares favorably with the compliance record of other limousine companies in Pennsylvania. Respondent has only had one complaint issued against it, which the Commission withdrew.

17. The seventh standard in the Policy Statement is whether the regulated entity cooperated with the Commission's investigation. Respondent has cooperated throughout all phases of this investigation.

18. The amount of the civil penalty or fine necessary to deter future violations is the eighth standard in the Policy Statement. The parties submit that a civil penalty in the amount of Five Hundred Dollars (\$500) is sufficient to deter Respondent from committing any violations in the future. This is Respondent's first violation of the Commission's regulations in nearly ten years. Furthermore, Respondent immediately took steps to remedy the problem by selling the overage vehicles. This Settlement

Agreement recognizes Respondent's good faith efforts to comply with the Commission's regulations.

19. The ninth standard examines past Commission decisions in similar situations. Counsel is not aware of any decisions with this precise fact pattern. However, when all relevant factors are taken into account, this settlement is consistent with past Commission actions, particularly involving companies with outstanding compliance histories like Respondent. Moreover, since this is a settled matter, it should be considered on its own merits.

20. The parties submit that an additional relevant factor – whether the case was settled or litigated – is of pivotal importance to this Settlement Agreement. A settlement avoids the necessity for the prosecuting agency to prove elements of each allegation. In return, the opposing party in a settlement agrees to a lesser fine or penalty. Both parties negotiate from their initial litigation positions. The fines and penalties in a litigated proceeding have always been different from those that result from a settlement.

21. This document represents the Settlement Agreement 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 and interpreted under Pennsylvania law.

22. None of the provisions of the Settlement Agreement or statements herein shall be considered an admission of any fact or culpability. I&E acknowledges that this Agreement is entered into with the express purpose of settling the asserted claims regarding the specific alleged violations of the Public Utility Code and the regulations

promulgated thereunder against, or prejudice to, any position which any party may adopt during any subsequent proceeding of whatever nature.

23. The parties agree that the underlying allegations were not the subject of any hearing or formal procedure and that there has been no order or findings of fact rendered in this matter.

24. This Settlement Agreement is conditioned upon the Commission's approval *without modification*.

25. The parties agree to waive the exception period, thereby allowing this Settlement Agreement to be presented directly to the Commission for review, pursuant to 52 Pa. Code § 5.232(e). The parties reserve the right to withdraw from this Settlement Agreement if it is modified in any manner, or if any adverse response is filed.

WHEREFORE, I&E and Sterling Limousine Service respectfully request that the Pennsylvania Public Utility Commission issue and initial decision approving the terms of the Settlement Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this the 7/26 day of 2013.

FOR THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Heidi L. Wushinske 7/26/2013
Heidi L. Wushinske, Esq. Date
Prosecutor

FOR STERLING LIMOUSINE SERVICE
Ronald L. Robinson 7/19/2013
RONALD L ROBINSON Date
OPERATIONS Manager

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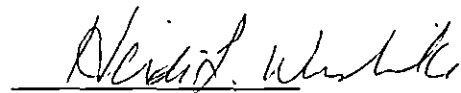
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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing documents in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

Notification by first class mail addressed as follows:

Ron Robinson
Jadco Enterprises d/b/a/
Sterling Limousine Service
228 Second Street Pike, Suite 2
Wrightstown, PA 18940



Heidi L. Wushinske
Prosecutor

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

Dated: July 31, 2013

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