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September 6, 2013

Re: Pennsylvania Public Utility Commission,
Bureau of Transportation and Safety v.
Lou Lane, Inc., t/d/b/a All Star Limousines
~~Docket A-2011-2230353~~
File No. 3164 *C-2011-2230353*

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

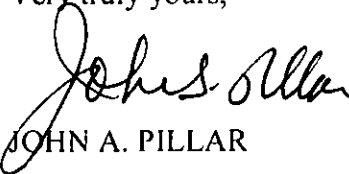
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SECRETARY'S BUREAU

Dear Ms. Chiavetta:

Enclosed for filing are **Exceptions of Lou Lane, Inc., t/d/b/a All Star Limousines, to Initial Decision** in connection with the above docketed proceeding.

Please acknowledge receipt of the enclosure by date stamp on the copy of this letter of transmittal enclosed and return it to me in the stamped, self-addressed envelope provided.

Very truly yours,


JOHN A. PILLAR

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Enclosures

cc: Stephanie M. Wimer, Esq.
Bureau of Investigation & Enforcement (via U.S. Mail and e-mail)
Office of Special Assistants
Pennsylvania Public Utility Commission (via e-mail)
Lou Lane, Inc. (via U.S. Mail)

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)

**EXCEPTION OF LOU LANE, INC., t/d/b/a ALL STAR LIMOUSINES
TO INITIAL DECISION**

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

John A. Pillar
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Due Date: September 9, 2013

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SECRETARY'S BUREAU

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

An Initial Decision in the above-docketed proceeding was issued by Administrative Law Judge Mary D. Long dated August 13, 2013. Lou Lane, Inc., t/d/b/a All Star Limousines (hereinafter All Star), did not contest its liability to pay its outstanding assessment in the amount of \$12,358.00 along with the penalty demanded in the Complaint. However, in sustaining the Complaint, Judge Long also denied the relief All Star requested, that is, to pay the amount due in twelve monthly installments, holding that All Star had not presented evidence of extraordinary financial circumstances warranting such relief. Judge Long ordered the immediate payment by All Star of \$17,243.33 and, if unable to do so, ordered that All Star's Certificate of Public Convenience be cancelled "without further action by the Pennsylvania Public Utility Commission"¹. In addition, Judge Long ordered that a request be made to the Pennsylvania Department of Transportation to put an administrative hold on all of All Star's vehicle registrations until the assessment is paid in full.

All Star hereby files its Exception to the Initial Decision.

¹ Initial Decision, p. 8.

I. EXCEPTION TO INITIAL DECISION

EXCEPTION. THE ADMINISTRATIVE LAW JUDGE ERRED IN CONCLUDING THAT EXTRAORDINARY FINANCIAL CIRCUMSTANCES DO NOT EXIST THAT WOULD WARRANT AN ORDER PERMITTING ALL STAR TO PAY THE OUTSTANDING ASSESSMENT IN INSTALLMENTS.

The only outstanding assessment due from All Star is the assessment of \$12,358.00 for the fiscal year ending June 30, 2011. Since the Complaint demanded the payment of this assessment together with a penalty, the total amount demanded in the Complaint is \$17,243.33. While Judge Long also makes reference to the assessment billed for the fiscal year ending June 30, 2010, which amounted to \$14,656.00, and found as a fact that All Star had made only two payments of \$4,885.33 in 2011, the Commission's records will establish that the assessment for the fiscal year ending June 30, 2010 has been paid in full by All Star, and a certificate of full payment was issued by the Commission. The Commission had extended All Star time to make the payments on the assessment it received for the fiscal year ending June 30, 2010 in installments.

At the hearing in this case, All Star's President and sole owner, Louis Weiner, and the company's independent certified public accountant, presented evidence of All Star's financial condition. Due to its extremely heavy debt service, All Star requested that it be allowed to pay the assessment for the fiscal year ending June 30, 2011, including the penalty, in twelve monthly installments. The Bureau of Transportation and Safety (hereinafter BTS) opposed All Star's request arguing that All Star has not demonstrated extraordinary circumstances that might justify an installment arrangement. BTS does not contend that the Commission is powerless to grant such relief to All Star but argues that "when the Commission has granted requests to pay in installments, it has been granted to groups of utilities where there has been a significant change

in assessment allocations”. (Initial Decision, p.4) Judge Long, citing Bureau of Transportation and Safety v. Penn-Harris Taxi Service Co.,² noted that the Commission has held that payment plans for overdue assessments are appropriate only if compelling or extraordinary circumstances exist. In the Penn-Harris Taxi Service case, the Commission stated:

The burden is on the delinquent utility to demonstrate that there were extraordinary circumstances which prevented it from paying its assessment in a timely manner.³

All Star is a limousine company and was one of a number of passenger transportation companies that filed objections to recent assessments based on the belief that the Unified Carrier Registration Act exempted limousine and other passenger carriers from paying the PUC assessment. Moreover, All Star, and a number of other limousine operators, received assessment invoices that were significantly greater than they had received prior to the Unified Carrier Registration Act. In the fiscal years ending June 30, 2010 and June 30, 2011, All Star’s assessment was nearly four times higher than assessments that it had been billed in prior years even though its revenues were not four times greater (NT 30-31).⁴ For this and other reasons, the Commission did allow a number of passenger carriers, including All Star, to pay assessments billed for the fiscal year ending June 30, 2010 in several installments and not all at one time. As stated previously, All Star met its commitment to pay its assessment for the fiscal year ending June 30, 2010 in three installments.

All Star submits that the Administrative Law Judge erred in concluding that All Star’s current financial circumstances do not warrant the relief it requested in this case. While Judge Long concluded in her Initial Decision, at pages 5 and 6, that “there are no extraordinary circumstances which might excuse Lou Lane’s failure to pay its assessment or would justify the

² PUC Docket No. A-00002450C9801 (Opinion and Order entered September 28, 1998).

³ Penn-Harris Taxi Service Co. at p.5.

⁴ Number in parentheses preceded by NT refer to the notes of testimony.

payment of the delinquent assessments in installments rather than in a lump sum”, Judge Long did not discuss any of the evidence presented by All Star supporting its position that extraordinary circumstances exist. The Administrative Law Judge erred in likening the financial challenges facing All Star, during what she concedes has been “an economic recession”, to the same challenges other carriers have been required to face. All Star contends that its financial crisis is unique and should not have been dismissed because other carriers may have fared better.

Judge Long concluded that the evidence suggests that the financial condition of All Star has been improving. All Star submits that Judge Long cherry picked evidence that supported her opinion and disregarded evidence that was detailed by All Star’s President and its accountant to demonstrate that All Star is struggling mightily to maintain its service in the face of severe economic burdens.

All Star was purchased by its owner for \$950,000.00, of which \$700,000.00 was financed and the balance paid out of funds advanced by the owner personally (NT 26). The loan from PNC Bank was for 10 years initially but has been restructured and extended in an effort to enable All Star to maintain sufficient cash flow to meet its debt service (NT 27-27). The economic recession created a severe financial hardship on All Star and required the restructuring of the debt service to PNC Bank. In addition, All Star was required to enter into a tax repayment plan with the United States Treasury pertaining to its tax liability which has created a further limitation on its ability to free up cash beyond what is needed for its current day-to-day operations (NT 47). All Star is a local company owned by Mr. Weiner, a life-long Pittsburgh resident, who is involved in the day-to-day operation and management of his limousine business. All Star employs 25 drivers, a car detailer, a part-time mechanic and 4 office staff (NT 24-25). Revocation of its operating authority will not only create an economic crisis on its personnel but

will also result in default of its current and long term debt. This result is contrary to the public interest.

Mr. Weiner testified that the economic difficulties his company has experienced have been exacerbated by the increase in the price of gasoline, local taxes, the cost of being required to replace older limousines and labor costs. All Star has made efforts to reduce costs without jeopardizing its service (NT 48-49). Notwithstanding, it has managed to remain in business and operate 24 hours a day, 7 days a week, and provide excellent service.

The fact that the Administrative Law Judge found there is evidence that the financial condition of All Star has been improving is not a factor that should mandate denial of the relief requested. On the contrary, the fact that All Star has managed to cope with the extraordinary difficulties it has faced financially should be an indication that it will keep its commitment to pay its assessment in installments as it now requests and soon be able to right its ship so that it will not be required to request such relief from the Commission in the future.

In the Penn-Harris Taxi Service case, *supra*, the Commission held that where a delinquent utility demonstrates that there are extraordinary circumstances which prevent it from paying its assessment in a timely manner, the Commission has the power to permit installment payments. The Commission held (*supra* 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.

The Commission has granted extraordinary relief to passenger carriers to pay assessments in installments. See Petition for Emergency Relief of the Pennsylvania Taxi and Paratransit Association, Docket P-2008-2013624. In that proceeding, then Chairman Holland issued an emergency order granting relief to all carriers in the Association and permitting payments of

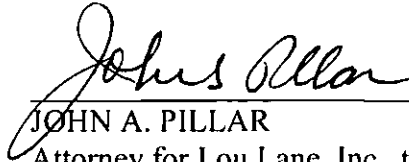
their assessments for the fiscal year ending June 30, 2008 in three installments over a period of six months. Relief was also granted to limousine carriers who received significantly higher assessments than in prior years and were permitted to pay assessments over a period of seven months. See A Limousine Service, Inc., Objection to General Assessment, Docket M-2010-2156075; Classy Cab, Inc., Objection to General Assessment, Docket M-2010-2156212.

III. CONCLUSION

On the basis of the foregoing Exception, All Star respectfully requests that the Decision of the Administrative Law Judge be modified and that All Star be permitted to pay its assessment for the fiscal year ending June 30, 2010 in twelve equal monthly installments of \$1,436.94.

Respectfully submitted,

Dated: Sept. 6, 2013



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 6th day of September, 2013, he did serve a true and correct copy of the within **Exception of Lou Lane, Inc., t/d/b/a All Star Limousines to Initial Decision**, on the parties named below as follows:

Stephanie M. Wimer, Counsel (via U.S. Mail and e-mail)
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Office of Special Assistants (via e-mail)
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265



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Hon. Rosemary Chiavetta, Secretary
Penna Public Utility Comm.
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