



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

IN REPLY PLEASE  
REFER TO OUR FILE  
C-2013-2321221

October 16, 2013

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

Re: Pennsylvania Public Utility Commission, Bureau of Investigation  
and Enforcement v. B.M. Enterprises, Inc. t/a A.G. Taxi  
Docket No. C-2013-2321221

Dear Secretary Chiavetta:

Enclosed please find an original copy of the Bureau of Investigation and  
Enforcement's Application for Subpoena of Edward Burkhardt in the above-referenced  
proceeding.

Copies are being served on all active parties of record. If you have any questions,  
please contact me at (717) 772-8839.

Sincerely,

Stephanie M. Wimer  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 207522

Enclosures

cc: Honorable Darlene D. Heep  
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.

B.M. Enterprises, Inc. t/a A.G. Taxi,  
Respondent

Docket No. C-2013-2321221

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §5.421(b), the Bureau of Investigation & Enforcement of the Pennsylvania Public Utility Commission (Commission) has filed an Application for Subpoena in the above-referenced matter. You are hereby notified that you may file a written response or objection within ten (10) days of service of the Application, pursuant to 52 Pa. Code §5.421(b)(3). An original copy of your response must be sent to:

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

A copy must also be served on the presiding officer and undersigned counsel.



Stephanie M. Wimer, Prosecutor  
PA Attorney ID No. 207522

Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Dated: October 16, 2013

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2013-2321221
	:	
B.M. Enterprises, Inc. t/a A.G. Taxi,	:	
Respondent	:	

**APPLICATION FOR SUBPOENA**

AND NOW comes the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") and files this Application to Subpoena Edward Burkhardt to testify at the hearing scheduled in the above captioned case, pursuant to 52 Pa. Code § 5.421. I&E avers that Mr. Burkhardt's testimony is necessary to authenticate I&E's copy of the advertisement that is the subject of this proceeding. In support thereof, I&E avers as follows:

1. I&E filed a *Complaint against B.M. Enterprises, Inc. t/a A.G. Taxi* ("Respondent") on February 25, 2013.
2. In its Complaint, I&E alleged that Respondent committed various regulatory violations in an advertisement that it mailed. Specifically, the Complaint alleged that Respondent held itself out to provide transportation service using limousines when it is only authorized to provide call or demand service. The Complaint further alleged that Respondent advertised that transportation would be provided "anywhere" and "local and

long distance” when Respondent is limited to transporting passengers in its certificated territory. The Complaint also alleged that Respondent failed to include its certificate number on the advertisement and advertised under a name that is different from the one that is on file with the Commission. Lastly, the Complaint alleged that Respondent offered to charge a flat rate in its advertisement, when Respondent’s tariff only permits it to charge the rate that is reflected on the taxi meter.

3. As a result of these alleged violations, I&E seeks a civil penalty in the amount of \$1,100.

4. Respondent filed an Answer to the Complaint denying all the allegations and requesting that the Complaint be dismissed.

5. Of pivotal importance in this proceeding is the production of a true and accurate copy of the advertisement that Respondent created and circulated by mail.

6. During its investigation, I&E obtained a copy of the advertisement from a third person who is not a party to this proceeding. Therefore, I&E is not in the position to authenticate the copy of Respondent’s advertisement that is the heart of the subject matter in the Complaint.

7. The party who is in the best position to authenticate the advertisement is Mr. Edward Burkhardt, who is the co-owner of Respondent’s business and served as the point-of-contact for Respondent during I&E’s investigation. Mr. Burkhardt’s company is responsible for producing and mailing the advertisement.

8. Despite I&E’s repeated efforts to obtain Respondent’s stipulation to the

authenticity of I&E's copy of its advertisement, Respondent has not answered I&E's request.

9. A proposed subpoena of Mr. Burkhardt has been included with this Application.

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the this Honorable Administrative Law Judge issue a Subpoena requiring Edward Burkhardt to attend the hearing in this matter scheduled for November 13, 2013.

Respectfully submitted,



Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No. 207522

Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Date: October 16, 2013

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**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In the Matter of:**

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement  
v.

B.M. Enterprises, Inc. t/a A.G. Taxi

Docket No. C-2013-2321221

**SUBPOENA**

To: Edward Burkhardt, 1167 Newport Mews Drive, Bensalem, PA 19020

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 an available hearing room on the 4<sup>th</sup> Floor of 801 Market Street, at Philadelphia Pennsylvania, on November 13, 2013, at 10:00 o'clock, in the above case, to testify on behalf of the Bureau of Investigation and Enforcement and to remain until excused;

2. And bring with you and produce the following: a true and accurate copy of the advertisement of B.M. Enterprises, Inc. t/a A.G. Taxi that was circulated by mail on or around August 21, 2012 and is the subject of the Complaint in the above-captioned proceeding.

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 \_\_\_\_\_

\_\_\_\_\_  
Darlene D. Heep  
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*

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**SECRETARY'S BUREAU**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :  
Bureau of Investigation and Enforcement, :  
Complainant :

v. :

Docket No. C-2013-2321221

B.M. Enterprises, Inc. t/a A.G. Taxi, :  
Respondent :

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing Application for Subpoena, either personally, by first class mail, electronic mail, express mail and/or fax upon the persons listed below, in accordance with the requirements of 52 Pa. Code §§5.421(b)(4) and 1.54 *et seq.* (relating to service by a party).

**Service by First Class Mail:**

Michael S. Henry, Esquire  
Michael S. Henry, LLC  
2336 South Broad Street  
Philadelphia, PA 19145



Stephanie M. Wimer  
Prosecutor

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

Dated: October 16, 2013

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