

TO THE WITHIN
YOU ARE HEREBY NOTIFIED TO
PLEAD TO THE ENCLOSED
PRELIMINARY OBJECTIONS OF DANACH LLC TO
PROTEST OF
EXECUTIVE TRANSPORTATION COMPANY INC
D/B/A LUXURY SEDAN SERVICE.
WITHIN 10 DAYS FROM SERVICE
HEREOF OR DEFAULT JUDGMENT MAY
BE ENTERED AGAINST YOU.



ATTORNEY FOR MOVANT

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: Application of Danach, LLC : Docket No. A-2013-2391804

PRELIMINARY OBJECTIONS OF APPLICANT DANACH LLC TO THE
PROTEST OF EXECUTIVE TRANSPORTATION COMPANY INC D/B/A LUXURY
SEDAN SERVICE.

Movant, Danach, LLC, by and through their attorney, David P. Temple, Esquire, hereby files these preliminary objections to the protest of Executive Transportation Company Inc D/B/A Luxury Sedan Service, and in support thereof aver as follows:

1. Movant is Danach LLC who filed an Application with the Commission for authority to provide limousine service in the Counties of Montgomery, Bucks, Delaware and Chester to points in Pennsylvania and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority on or about October 16, 2013.

2. The Application was published in the Pennsylvania Bulletin on December 7, 2013 with protests due on or before December 23, 2013. A true and correct copy of the publication is attached hereto as Exhibit A.
3. On December 26, 2013 Respondent, Executive Transportation Company Inc D/B/A Luxury Sedan Service, filed a protest to this Application. A true and correct copy of the docket is attached hereto as Exhibit B
4. Executive Transportation Company Inc D/B/A Luxury Sedan Service is a corporation registered in the Commonwealth of Pennsylvania.
5. The protest was a form protest citing objections based on allegations that the Applicant cannot meet the requirement of need. A true and correct copy of the protest without the operating authority included is attached hereto as Exhibit C
6. There is no longer a requirement to show need for a limousine applicant.
7. The Protest also makes a general assertion that the Applicant cannot meet its burden as to fitness and harm to the Protestant.
8. The Protestant cites no specific allegations as to how this Applicant does not meet the fitness requirements nor how the Protestant will be harmed in any way by granting of the Application
9. The protest was filed three days after the filing deadline of December 23, 2013
10. Since the Protest herein was filed three days after the end of the protest period the Protest is untimely.
11. Therefore the preliminary objection as to timeliness is valid and the Protest and must be dismissed.

12. Since the Protest fails to make specific allegations of how the Applicant does not meet fitness requirements of the Commission nor does it state in any way how the Protestant will be harmed by the granting of this Application, the Protest lacks both legal and factual specificity.

13. Therefore since the Protest lack the required legal and factual specificity it is invalid and must be dismissed.

WHEREFORE, Movant Danach LLC, by and through their attorney respectfully requests the Commission grant the preliminary objections of Danach LLC and order the dismissal of the protest of Executive Transportation Company Inc D/B/A Luxury Sedan Service to the Application of Danach LLC under Docket No. A-2013-2391804

Respectfully,



David P. Temple, Esquire
Attorney for Movant
Danach LLC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE: Application of Danach, LLC : Docket No. A-2013-2391804

**MEMORANDUM OF LAW IN SUPPORT OF PRELIMINARY OBJECTIONS OF
APPLICANT DANACH LLC TO THE PROTEST OF EXECUTIVE
TRANSPORTATION COMPANY INC D/B/A LUXURY SEDAN SERVICE**

THE PROTEST OF EXECUTIVE TRANSPORTATION COMPANY INC D/B/A
LUXURY SEDAN SERVICE IS INVALID AS IT WAS UNTIMELY FILED

A protest shall be filed within the time frame specified in the published notice of the Application. 52 Pa.Code §5.53. The Application of Danach LLC was published in the December 7, 2013 Pennsylvania Bulletin. The Bulletin clearly noticed all interested parties that protests were to be filed and served on the Applicant by Monday December 23, 2013. A true and correct copy of the notice published in the Pennsylvania Bulletin is attached hereto as Exhibit A. The Protestant Executive Transportation Company Inc D/B/A Luxury Sedan Service filed their protest on December 26, 2013, three days after the filing deadline. Since the protest was not filed by the time permitted under regulation, the Protest must be dismissed.

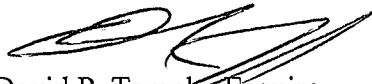
THE PROTEST IS LEGALLY DEFICIENT BECAUSE IT LACK THE SPECIFICITY
REQUIRED TO MAINTAIN A PROTEST

The PUC requires protestants to state their basis for protests very clearly and is not tolerant of boilerplate protest language. In the Application of Sean McDonough t/a Northstar Executive Transportation the Commission noted “ [A] one-page Protest contains little more than bald assertions that the Applicant has failed to satisfy the Commission's evidentiary criteria for approval of the Application. The Protestant offers no specific factual averments in support of his assertions. Rather than prolong this matter, the Protest will be dismissed and the Application will be granted without the portions of the restrictive amendment relating to equipment ((A)-(C)). PENNSYLVANIA PUBLIC UTILITY COMMISSION, 2002 Pa. PUC LEXIS 45 (November 21, 2002, Adopted; December 4, 2002, Entered). The Commission shows little tolerance for generally-worded protests that lack a factual basis. *See Re: Distrib. Freight Sys., Inc.*, 66 Pa. P.U.C. 231, 233 (1988); *Re: Ketron, Inc.*, 67 Pa. P.U.C. 394, 400 (1988) (“This type of generalized pleading in [an application] proceeding is not helpful to either the Commission or the public.”). *Id*

That is the exact scenario with this protest. The Protestant Executive Transportation Company Inc D/B/A Luxury Sedan Service is one of four different protests that are all identical in their language. Germantown Cab Company, Five Star Limousine Service Inc and Black Star Limousine, Inc have all made identical allegations. However none of these protests, including this one, is clear as to how the applicant does not meet the requirements of the PUC or how the Protestant will be harmed by the

granting of this Application. The only allegation is that Protestant objects “on the ground that Applicant cannot meet its burden under 52 Pa. Code §41.14 as to need, fitness and harm to Protestant.” There is no further development of that allegation. Such bald assertions cannot satisfy the requirements of a valid protest. Since the specificity required of a protest before the Commission does not exist, the Protest must be dismissed

Respectfully,

A handwritten signature in black ink, appearing to read 'D. Temple', written over the typed name below.

David P. Temple, Esquire
Attorney for Movant
Danach LLC

VERIFICATION

David P. Temple verifies that he is acquainted with the facts and information set forth in the foregoing pleadings are true and correct to his/her knowledge, information and belief; and that the foregoing Verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.



DAVID TEMPLE

DATE: 1/13/14

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: Application of Danach, LLC : Docket No. A-2013-2391804

CERTIFICATE OF SERVICE

I, DAVID P. TEMPLE, Esquire hereby certify that a true and correct copy of Applicant Danach LLC Preliminary Objections of the Protest of Executive Transportation Company Inc D/B/A Luxury Sedan Service was sent to the following interested parties, via United States First Class Mail on January 13, 2014:

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

Michael S. Henry, Esquire
2336 S. Broad Street
Philadelphia, PA 19145
Attorney for Executive Transportation Company Inc D/B/A Luxury Sedan Service, Five Star Limousine Service Inc, Germantown Cab Company and Black Tie Limousine Service, Inc

Dated: January 13, 2014

GALLAGHER MALLOY & GEORGES, P.C.

By: _____


DAVID P. TEMPLE, ESQUIRE
Attorney For Movant
Danach LLC

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: Application of Danach, LLC : Docket No. A-2013-2391804

ORDER

It is hereby ORDERED and DECREED that the Preliminary Objections of Applicant Danach Inc are GRANTED and that the Protest of Executive Transportation Company Inc D/B/A Luxury Sedan Service to the Application of Danach LLC at Docket No. A-2013-2391804 is hereby DISMISSED

Date:

Administrative Law Judge

EXHIBIT

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NOTICES

Service of Notice of Motor Carrier Applications

[43 Pa.B. 7201]

[Saturday, December 7, 2013]

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by December 23, 2013. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-2013-2386986. Tiny Mammoth, LLC (127 South Fairmont Street, Pittsburgh, Allegheny County, PA 15206) persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in Allegheny County, to points in Pennsylvania, and return.

A-2013-2389047. Grand Limousine and Transportation Co. (416 Meadowcroft Road, Radnor, PA 19087) for the right to begin to transport, as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in every county within Pennsylvania. *Attorney:* Scott A. Lisgar, 101 East Darby Road, Havertown, PA 19083.

A-2013-2391804. Danach, LLC (182 Howard Street, #8, San Francisco, CA 94105) to transport as a common carrier, by motor vehicle, persons in limousine service, between points in Bucks, Montgomery, Chester and Delaware Counties, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* David P. Temple, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

Application of the following for approval to *begin operating as common carriers for transportation of household goods in use as described under the application.*

A-2013-2379677. Jorge Bermejo, t/a JP Moving Corp (122 West Poplar Street, Nanticoke, Luzerne County, PA 18634) household goods in use, from points in Luzerne County, to points in Pennsylvania, and vice versa.

**Application of the following for the approval of the right and privilege to
discontinue/abandon operating as *common carriers* by motor vehicle and for cancellation
of the certificate of public convenience as described under the application.**

A-2013-2389308. Kenneth J. Weaver (846 1/2 Balls-town Road, Lititz, PA 17543) for the discontinuance of service and cancellation of its certificate, as a common carrier, by motor vehicle, authorizing the transportation of persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Lancaster County, to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 13-2300. Filed for public inspection December 6, 2013, 9:00 a.m.]

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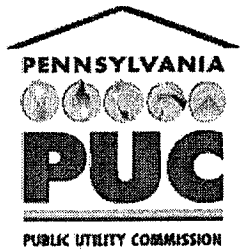
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EXHIBIT

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ABOUT PUC Consolidated Case View

The consolidated case view displays the case information (identified by Docket Number **A-2013-2391804**), any Daily Actions performed on the case, and lists all public documents associated with that case.

Case Summary

Docket Number A-2013-2391804		Active	
Applicant:	DANACH LLC	Utility Code:	6416124
Complainant:		Utility Name:	DANACH LLC
Respondent:		Utility Type:	Bus
Responsible Bureau:	ALJ	Efiling Confirmation Number (Case):	1528475
Date Filed:	10/16/2013	Date Posted:	11/8/2013
Case Description:	Application of Danach LLC for approval to use Luxury vehicles to Transport passengers on an advanced reservation basis between points in Bucks, Montgomery, Delaware and Chester Counties to points in Pennsylvania and return.		

Daily Actions

Action Date	Description	Posted Date
11/8/2013	Case Created - A-2013-2391804 - Danach LLC filed application for authority to begin transporting passengers in limousine service.	11/8/2013
11/8/2013	Document Attached to Case - Member's Info-Danach LLC - Danach LLC filed member's info.	11/8/2013
11/8/2013	Document Published on Web - Document 'Member's Info-Danach LLC' is made public	11/8/2013
11/8/2013	Document Published on Web - Document 'Application-Application to Begin Service.pdf' is made public	11/8/2013
11/8/2013	Document Published on Web - Document 'DANACH LLC DEFICIENCY LETTER.docx' is made public	11/8/2013
11/8/2013	Assigned Responsible Bureau - TUS	11/8/2013
11/21/2013	Document Removed from Web - Document 'Member's Info-Danach LLC' has been removed from Web	11/21/2013
11/21/2013	Document Attached to Case - Member's List - Danach LLC - Danach LLC filed list of members.	11/21/2013
12/26/2013	Document Attached to Case - Protest - Executive Transportation Co t/a Luxury Sedan Svc - Executive Transportation Company Inc d/b/a Luxury Sedan Service filed Protest.	12/26/2013

12/26/2013	Document Published on Web - Document 'Protest - Executive Transportation Co t/a Luxury Sedan Svc' is made public	12/26/2013
12/30/2013	Reassign Case to OALJ - Other - See Comments - Application protested on 12/26/13 - protests were due by 12/23/13 - transfer to OALJ to verify if protest is timely and/or valid	12/30/2013
1/2/2014	Document Attached to Case - Protest - Germantown Cab Co - Germantown Cab Co, Five Star Limousine Service Inc and Black Tie Limousine Service Inc filed protests to the application.	1/2/2014
1/2/2014	Document Attached to Case - Protest - Black Tie Limousine Service Inc - Germantown Cab Co, Five Star Limousine Service Inc and Black Tie Limousine Service Inc filed protests to the application.	1/2/2014
1/2/2014	Document Attached to Case - Protest - Five Star Limousine Service Inc - Germantown Cab Co, Five Star Limousine Service Inc and Black Tie Limousine Service Inc filed protests to the application.	1/2/2014
1/2/2014	Document Attached to Case - Motion to Accept E-filed Protests Nunc Pro Tunc - Black Tie Limo et al - Black Tie Limousine Service Inc, Five Star Limousine Service Inc and Germantown Cab Co filed a motion to accept protests nunc pro tunc.	1/2/2014
1/2/2014	Document Published on Web - Document 'Motion to Accept E-filed Protests Nunc Pro Tunc - Black Tie Limo et al' is made public	1/2/2014
1/2/2014	Document Published on Web - Document 'Protest - Black Tie Limousine Service Inc' is made public	1/2/2014
1/2/2014	Document Published on Web - Document 'Protest - Germantown Cab Co' is made public	1/2/2014
1/2/2014	Document Published on Web - Document 'Protest - Five Star Limousine Service Inc' is made public	1/2/2014

Public Documents

Document Name	Document Type	eFiling Confirmation Number	Date Received	Date Served	Reference Docket Number
Application-Application to Begin Service.pdf	Application to Begin Service	1528475	10/16/2013		
DANACH LLC DEFICIENCY LETTER.docx	Secretarial Letter	1528475			
Protest - Executive Transportation Co t/a Luxury Sedan Svc	Protest (Official)	1528475	12/23/2013		
Motion to Accept E-filed Protests Nunc Pro Tunc - Black Tie Limo et al	Motion	1528475	1/2/2014		
Protest - Black Tie Limousine Service Inc	Protest (Official)	1528475	1/2/2014		
Protest - Germantown Cab Co	Protest (Official)	1528475	1/2/2014		
Protest - Five Star Limousine Service Inc	Protest (Official)	1528475	1/2/2014		

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EXHIBIT

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COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE:

APPLICATION OF

A.-2013-2391804

DANACH, LLC

Application for certificate of public convenience to begin to transport as a common carrier, by motor vehicle, persons upon call or demand service, between points in Bucks, Montgomery, Chester and Delaware Counties, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

PROTEST OF EXECUTIVE TRANSPORTATION COMPANY, INC.

D/B/A/ LUXURY SEDAN SERVICE

TO THE APPLICATION OF

DANACH, LLC

1. EXECUTIVE TRANSPORTATION COMPANY, INC. (Executive) protests the Application of Danach, LLC (Applicant).
2. Executive is a certified public utility authorized to transport persons upon call or demand in the of state Pennsylvania with certain restriction. A description of Executive's certified area is contained in its tariff, which is attached hereto and marked Exhibit "A". Executive address is 1167 Newport News Drive, Bensalem, PA 19020.
3. Executive's attorney is Michael S. Henry, Esquire, 2336 South Broad Street, Philadelphia, PA 19145, (215-218-9800).
4. Applicant is seeking the right to transport as a common carrier, by motor vehicle, persons in limousine service, between points in Bucks, Montgomery, Chester and Delaware Counties, and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

5. Protestant objects to the granting of this application on the ground that Applicant cannot meet its burden under 52 Pa. Code § 41.14 as to need, fitness and harm to Protestant.

6. Protests to this Application are due on or before December 23, 2013. This is a timely protest and therefore Executive is entitled to participate in this proceeding as a party intervener pursuant to 52 PA. Code 3.381.

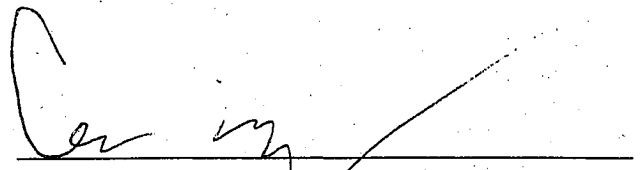
7. Pursuant to 333(c) of the Pennsylvania Public Utility Code, demand is made upon Applicant to furnish Protestant's counsel with a list of the names and addresses of witnesses he intends to call and a brief summary of the proposed testimony; in particular, complaints, if any, against the services of the Protestant.

8. Additionally, demand is made upon Application to furnish Protestant's counsel with proof of need for service and financial responsibility.

9. Protestant will agree to withdraw its protest if the Applicant agrees not to operate in Protestant's authorized territory.

WHEREFORE, EXECUTIVE TRANSPORTATION COMPANY, INC., respectfully requests this Commission to deny the Application of Danach, LLC

Respectfully submitted,



MICHAEL S. HENRY, ESQUIRE
Attorney for Protestant
2336 South Broad Street
Philadelphia, PA 19145
215-218-9800

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE:

APPLICATION OF

A.-2013-2391804

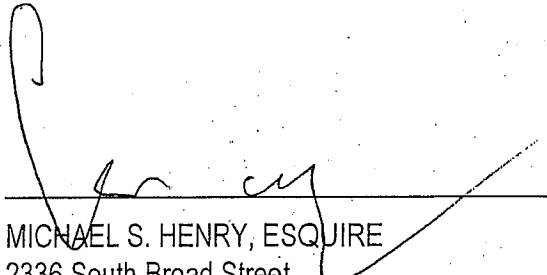
DANACH, LLC

CERTIFICATE OF SERVICE

I, hereby certify that on this 23th day of December, 2013, I mailed by first class mail, postage prepaid, a copy of the foregoing Protest of Executive Transportation Company, Inc. to the Application of Danach, LLC to :

Danach, LLC
182 Howard Street, #8
San Francisco, CA 94105

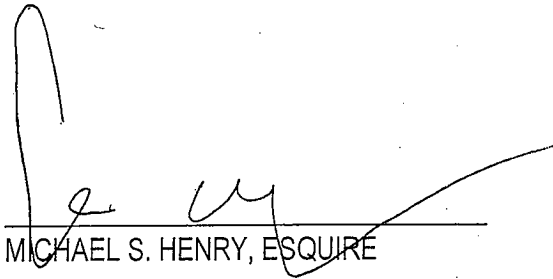
David Temple, Esq.
1760 Market Street
Suite 1100
Philadelphia, PA 19103



MICHAEL S. HENRY, ESQUIRE
2336 South Broad Street
Philadelphia, PA 19145
215-218-9800

VERIFICATION

MICHAEL S. HENRY, ESQUIRE verifies that he/she is acquainted with the facts and information set forth in the foregoing pleadings are true and correct to his/her knowledge, information and belief; and that the foregoing Verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.



MICHAEL S. HENRY, ESQUIRE

DATE: 12/23/13