

PUBLIC UTILITY COMMISSION

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 :
D's Limousine Service, Ltd. :
 A corporation of the Commonwealth of : Docket No.
 Pennsylvania, for the right to transport, :
 as a common carrier, persons, in group and : A-00108173
 party service, between points in the counties:
 of Lehigh, Northampton, Bucks and :
 Philadelphia. :
 :
 Further hearing. :
 :
 -----X

Pages 1 through 85

Hearing Room No. 1
State Office Building
Broad and Spring Garden Streets
Philadelphia, Pennsylvania

Wednesday, February 21, 1990

Met, pursuant to notice, at 10:13 a.m.

DOCKETED
MAR 26 1990

BEFORE:

MARTIN FOUNTAIN, Administrative Law Judge

APPEARANCES:

RICHARD H. PEPPER, Esquire
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(For the Applicant)

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C O N T E N T S

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
D. E. Newberry	4	17	31	--
Joan Bramfitt	39	43	45	--
Franklin R. Strohl, Jr.	46	50	--	--
Arthur Joseph Prayner	52	53	--	--
D. E. Newberry (Recalled)	58	60	--	--
Peter King	63	66	--	--
Eilene King	70	71	--	--
Louis Marano	74	80	--	--

E X H I B I T S

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>Protestant's</u>		
✓ No. 1 (Packet of PUC orders)	20	84
✓ No. 2 (Yellow Pages ads)	24	84
No. 3 (Description of company)	84	84
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No. 5 (Driver list)	84	84
No. 6 (Advertisements)	84	84
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P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE MARTIN FOUNTAIN: The
3 hearing will begin.

4 Mr. Pepper, do you have an opening statement?

5 MR. PEPPER: No, sir. I don't believe it is
6 necessary.

7 JUDGE FOUNTAIN: Okay. This is an application for
8 group and party service?

9 MR. PEPPER: That's correct, sir.

10 JUDGE FOUNTAIN: This is A-00108173, D's Limousine
11 Service, Ltd.

12 Do you want to call your first witness, Mr. Pepper?

13 MR. PEPPER: Yes, Your Honor. For the record, I
14 would note that there were previously three applications
15 filed. Two have been withdrawn. This is the only one
16 that is pending.

17 There is unrelated to this proceeding a transfer
18 application pending for this Applicant as well but that is
19 not before you today.

20 JUDGE FOUNTAIN: All right.
21
22
23
24
25

1 Whereupon,

2 D. E. NEWBERRY

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PEPPER:

6 Q. Would you state your name, please?

7 A. Newberry, D. E.

8 JUDGE FOUNTAIN: Would you repeat that?

9 THE WITNESS: Yes, sir. D. E. Newberry.

10 BY MR. PEPPER:

11 Q. And your business address, sir?

12 A. It's Orefield, Pennsylvania, P.O. Box 296,
13 18069.

14 Q. Now, that is your post office address. Where is
15 your actual office?

16 A. It's at 14 Kernsville Road.

17 Q. What is located there?

18 A. There is a trucking building and also across the
19 street is a fire company.

20 Q. By whom are you employed?

21 A. Myself.

22 Q. You are an officer of the Applicant, D's
23 Limousine Service, Ltd.?

24 A. Yes. President.

25 Q. That is a Pennsylvania corporation?

1 A. Yes.

2 Q. And its business address is located at the
3 address that you have given?

4 A. Yes.

5 Q. Who are the other officers?

6 A. Dorothy Newberry, my wife.

7 Q. What position does she hold?

8 A. She is vice-president and secretary/treasurer.

9 Q. Any other officers?

10 A. No, that is it.

11 Q. What about shareholders?

12 A. None.

13 Q. Other than yourself?

14 A. Just ourselves.

15 Q. Now, you are before the Judge on an application
16 for group and party tours. How long have you been in
17 business?

18 A. I have been in business for approximately
19 five-and-a-half years now.

20 JUDGE FOUNTAIN: In this type of business?

21 THE WITNESS: Yes.

22 BY MR. PEPPER:

23 Q. Would you give a description of the background
24 of your business experience?

25 A. Yes. I have been in the transportation most all

1 my life.

2 Q. When did it start?

3 A. You mean in the beginning of my life?

4 Q. Yes, sir.

5 A. Probably back when I was a young man on the
6 farm, taking things to market.

7 JUDGE FOUNTAIN: Off the record.

8 (Discussion off the record.)

9 THE WITNESS: The last job I had was Alyesco
10 Pipeline Safety Corporation, Fairbanks, Alaska. I was
11 director of transportation.

12 BY MR. PEPPER.

13 Q. And after that?

14 A. Then I went to work for Ryder/PIE Truck Lines as
15 a consultant.

16 Q. You said you went into business for yourself
17 approximately five-and-a-half years ago, is that correct?

18 A. Yes.

19 Q. During those five-and-a-half years could you
20 describe for us your work experience?

21 A. Yes. We started a small limousine company with
22 -- one car we started with and we built it up now to
23 approximately eight vehicles. Over this period of time
24 our business is stable. We have done very well with the
25 business, we feel, and we would like to expand it.

1 Q. What areas do you serve?

2 A. At the present time we are serving -- we are an
3 ICC carrier at the present time. And also we are in a
4 position now of purchasing new permits and that would be
5 for Northampton, Berks...

6 Q: Carbon?

7 A. Carbon, yes.

8 JUDGE FOUNTAIN: Are you certificated by the
9 Pennsylvania Public Utility Commission?

10 THE WITNESS: Well, basically, we can work now. We
11 have -- I don't know how to explain it. You would have
12 to explain it to them.

13 MR. PEPPER: To make a long story short, he is in
14 the process of purchasing some PUC rights.

15 JUDGE FOUNTAIN: That is the transfer you mentioned?

16 MR. PEPPER: That's correct, Your Honor. That is
17 currently before the Commission. I believe there is a
18 final hearing on it scheduled late in March. There have
19 been no protesters so far.

20 BY MR. PEPPER:

21 Q. Mr. Newberry, if you would, would you describe
22 the equipment of D's Limousine Service, Ltd.?

23 A. At the present time we are running four sedans,
24 two stretches and two 15 passenger vans.

25 Q. Would you describe each of those for us?

1 A. Yes. We have two Dodge passenger vans. We have
2 four Lincoln Towncars. We have one Grand Marquis stretch
3 and one '86 Lincoln stretch.

4 Q. Did you cover the vans?

5 A. Yes, two 15 passenger vans. I believe I stated
6 that.

7 Q. Could you give the years for each of those, by
8 the way?

9 A. I beg your pardon.

10 Q. The years?

11 A. 1986 and 1981.

12 Q. For the two vans?

13 A. Yes.

14 Q. Could you describe for us the safety procedures
15 that your company utilizes?

16 A. Yes. All of our maintenance is contracted out.
17 Every 5,000 miles we have a safety inspection. All
18 vehicles go through a safety inspection, lube, oil change,
19 filter and a safety inspection done at the same time.

20 The drivers have a trip sheet they fill out,
21 maintenance sheet for each vehicle, prior to each trip.
22 All of our drivers have physicals and the ICC written
23 test.

24 Q. When a driver is assigned a trip, what is the
25 first thing he does?

1 A. He checks his trip sheet the first thing in the
2 office and then they usually go to the car and they check
3 their equipment. If something is wrong they usually
4 notify us and it is corrected at that time.

5 Q. Briefly, what would that equipment check consist
6 of?

7 A. The lights, the brakes, the horn, the tires.

8 Q. Go ahead.

9 A. The tires. A visual inspection of the car is
10 what it is.

11 Q. With respect to the training that your drivers
12 undergo, could you describe that for us?

13 A. Yes. We hire no drivers unless they are
14 roadtested and also we do give them tests to the airport,
15 you know, to make sure they know where they are going, to
16 the major airports like Kennedy and La Guardia. We have
17 what we call a student trip. We send them out --

18 JUDGE FOUNTAIN: Keep your voice up a little. You
19 are talking in conversational tones. I have some
20 interference back here and at times when you drop your
21 voice I can't hear you.

22 THE WITNESS: All right.

23 BY MR. PEPPER:

24 Q. Sir, how many drivers do you have currently
25 working for you?

1 A. At the present time, part-time and full-time, we
2 have 14 drivers.

3 Q. All of them are appropriately licensed?

4 A. Yes.

5 Also, I might enter before any drivers can go to
6 work for us also on top of what we do they have to be
7 approved by our insurance company. The insurance company
8 checks them out also and if they have one blemish against
9 their record, well, that is the end of our insurance, or
10 the end of them. They have to go.

11 Q. Would you tell us about your insurance coverage?

12 A. We carry 1.5 million liability. We also carry
13 physical damage. Before we can hire anybody we have to
14 send in a -- we can call it in on the phone or send it in
15 on a form that we have. In turn they let us know in
16 writing if the driver is okay or not in their mind.

17 Q. During your five-and-a-half years of operation
18 have you had any major claims against your company?

19 A. Not major, no.

20 Q. Now, you mentioned your ICC rights. Is that
21 permit number MC-176279?

22 A. Correct.

23 Q. How long have you been operating under those
24 rights?

25 A. About five-and-a-half years.

1 JUDGE FOUNTAIN: Do you have property as well as
2 personnel?

3 THE WITNESS: Do we have property?

4 JUDGE FOUNTAIN: Yes.

5 THE WITNESS: You mean the limousine company or me
6 and my wife?

7 JUDGE FOUNTAIN: The limousine company.

8 THE WITNESS: No. No property.

9 JUDGE FOUNTAIN: Well, he apparently misunderstood
10 me. So I am going to overlook that.

11 Now, with the ICC you can carry property or
12 passengers. Do you have authority to transport both in
13 limousines or what in your line of work?

14 THE WITNESS: What did you say? I'm sorry, sir. I
15 don't follow you.

16 JUDGE FOUNTAIN: In your line of work, are you able
17 to carry property interstate as well as passengers?

18 BY MR. PEPPER:

19 Q. Is your ICC permit limited to passengers or
20 property or both?

21 A. There is some property that you can carry which
22 is unrestricted, okay, and that particular property is
23 such as small packages and things like that. In some
24 areas you can haul those. Like, if it's air freight,
25 there is nothing against hauling air freight. You can

1 haul that.

2 JUDGE FOUNTAIN: All right.

3 BY MR. PEPPER:

4 Q. What percent, if any, of your business is
5 involved in hauling packages?

6 A. Almost zero.

7 Q. Your entire five-and-a-half years, then, has
8 been spent hauling passengers in ICC?

9 A. That's correct.

10 Q. Would you tell us about the telephone service
11 that you have?

12 A. Yes. All of our cars are equipped with
13 telephones. We are on Bell Atlantic. They are hooked up
14 where we can contact our cars at any time. And of course
15 we have our office telephones. We have an 800 number. We
16 have two private lines running into our office.

17 Q. Mr. Newberry, what is your intention if granted
18 these PUC rights?

19 A. My intention if granted the PUC rights is to be
20 competitive in the charter market. We find a lot of calls
21 -- in fact, most of the time we can't supply our vans in
22 the peak traffic hours, say, for instance, like, the trees
23 and stuff like this up in the Poconos, wanting to go
24 sight-seeing, we are always getting calls to go up in the
25 Poconos. A lot of people are forced into the situation --

1 we have a program in Bethlehem, where they have a big
2 parade and everything and we always get calls for this.
3 But there isn't enough vans present for this, so I
4 understand through the channels. And these people are
5 forced to go out and hire anybody off the street to drive
6 a van or they go down and rent one. And there is usually
7 not enough insurance or nothing and it's really a shame
8 this is this way.

9 JUDGE FOUNTAIN: You are talking about gypsy
10 drivers?

11 THE WITNESS: Yes, that's correct, sir. They are
12 forced into a situation that they shouldn't be forced
13 into.

14 JUDGE FOUNTAIN: Have you been logging these calls
15 that you have to turn down?

16 THE WITNESS: Per se, no, sir, I have not.

17 JUDGE FOUNTAIN: All right, Mr. Pepper.

18 MR. PEPPER: Thank you.

19 BY MR. PEPPER:

20 Q. Do you believe there is a need for additional
21 group and party transportaion services?

22 A. I most certainly do. I would not be sitting
23 here wasting my money and everything if I didn't believe
24 there was a need in it. I would not be investing my money
25 for equipment to buy for this if I didn't believe there

1 was a need of it. In fact, I know there is a need of it.

2 Q. Why so?

3 A. Because I have people that call me, people that
4 contact me on a regular basis, can you haul me, say, up to
5 the Poconos or up to see the mountains or down to the
6 parade or down to the flower show here in Philadelphia and
7 all this. And I say, well, no, I don't have the permits
8 to do that with. So I don't do it. And this is an on a
9 constant basis. The airport, the same way. If you don't
10 have the permits, you don't run it.

11 Q. Have you done any research or investigative
12 inquiry with respect to the services that are currently
13 available for group and party?

14 A. Yes, we have. We have looked into it very
15 closely and during the peak of the seasons, which is
16 usually in the fall wherever you have your, you know, your
17 tours and trips and all this, the buses, most all of them
18 are booked solid and the other limousine companies are
19 either illegal or they don't have the permit or they don't
20 have the equipment to handle it with.

21 Q. You mentioned that you have made arrangements or
22 plans for purchasing additional equipment if granted these
23 rights. Would you describe those for us?

24 A. Yes. I made plans to probably trade in two of
25 my vans and probably buy four new ones. That is my --

1 JUDGE FOUNTAIN: Is that 15 passenger?

2 THE WITNESS: That's correct, sir. And I will have
3 them set up differently than most of them. I will have
4 them set up with a safety net where -- most of my
5 competitors, when they go down the road, they have the
6 luggage in the back. They don't have a safety net or
7 nothing else, which is strictly illegal and against the
8 law for them to be doing this to start with. They are not
9 set up to carry 15 people or even ten people or the
10 luggage in the same vehicle. You are not supposed to have
11 loose luggage flying around in the same vehicle,
12 basically. So these vans will be set up properly by the
13 law, by OSHA, where you can take people back and forth to
14 the airport or wherever.

15 BY MR. PEPPER:

16 Q. Why do you believe your company is qualified to
17 perform these services?

18 A. Well, basically, number one, we started out with
19 one car and we are to the point now that we have carried
20 our own weight. Sometimes it gets a little hectic but we
21 have made a living out of it. We don't have nothing else
22 other than just the limousine company to make our living
23 from, me and my wife, that's all, and we feel we have been
24 successful at it in the way we have marketed it and the
25 way we have went about it. So we would like to continue

1 on and grow.

2 Q. This is essentially a family corporation?

3 A. Yes. Just me and my wife is all.

4 Q. Is your son involved in it on occasion?

5 A. No -- excuse me. He might pull a trip or
6 something for us. But not in the paperwork.

7 Q. What is the financial status of your company?
8 Any difficulties financially?

9 A. Not really. When we do have problems usually
10 it's in accounts receivable where we got a lot of money
11 out and it just don't come in. Sometimes a large
12 corporation at certain times of the year, I think all of
13 us, limousine companies, go through the same thing.
14 Things get a little bit slow.

15 JUDGE FOUNTAIN: Do you have a balance sheet that
16 you are going to submit?

17 MR. PEPPER: Your Honor, we have submitted to the
18 Commission the 1987 tax return, which was the most recent
19 at that time. We will update it with the '88 and '89 as
20 soon as the '89 is prepared.

21 BY MR. PEPPER:

22 Q. Now, Mr. Newberry, would it be fair to say that
23 you have no financial difficulties?

24 A. No, not really.

25 Q. Other than the current year, are there any

1 outstanding taxes, fines or anything else against the
2 company?

3 A. No.

4 Q. Is there anything else you would like to add to
5 the testimony that you have offered so far as to why you
6 should be granted these rights?

7 A. I think we have pretty much covered it. The
8 business is there. I feel it is. I am willing to invest
9 my money into it. Most of the people that we have talked
10 with, they have all said the same thing. There is never
11 enough transportation, basically. Especially in the van
12 end of it.

13 MR. PEPPER: Thank you.

14 JUDGE FOUNTAIN: Cross.

15 MR. KELLEHER: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. KELLEHER:

18 Q. Mr. Newberry, you said that you began in the
19 transportation business and locally your experience was
20 with Ryder/PIE as a consultant?

21 A. Yes.

22 Q. Is that for passenger transportation or for
23 cargo?

24 A. That was for cargo.

25 Q. Was your experience in passenger transportation,

1 then, begun when you began this business five-and-a-half
2 years ago?

3 A. Well, I done a little of it prior to that but
4 this is the main part as far as hauling passengers.

5 Q. Now, currently, the governmental authority that
6 you have for passenger transportation is only ICC
7 authority, is that correct?

8 A. Yes.

9 Q. And that is for interstate?

10 A. Yes.

11 Q. Transportation from Pennsylvania to other
12 states?

13 A. Yes. Correct.

14 Q. And vice-versa?

15 A. Yes.

16 Q. There is no currently pending Pennsylvania
17 Public Utility Commission authority that has been granted
18 to you up to this point, is that correct?

19 A. No. That's correct.

20 Q. There is this application for group and party
21 service and there is a pending application for a transfer
22 of limousine authority to you from an existing carrier?

23 A. That's correct.

24 Q. And that application for transfer has to do with
25 Northampton, Berks and Carbon Counties as far as you

1 understand?

2 A. And Lehigh.

3 Q. And Lehigh?

4 A. Yes.

5 Q. In the five-and-a-half years that you have been
6 in business and your corporation has been in existence,
7 have any other businesses operated under the name D's
8 Limousine Service, Ltd.?

9 A. No.

10 Q. That is a corporation and name registered in the
11 Commonwealth?

12 A. That's correct.

13 Q. As far as you know no other corporation operates
14 under that name?

15 A. Far as I know, no.

16 Q. Although, then, the permits that you have to
17 this point are issued by the federal Interstate Commerce
18 Commission there have been complaints filed against you
19 and violations found against you in the years since you
20 have been in business, is that correct?

21 A. At one time, yes. Let me explain before we go
22 any further --

23 Q. My question just calls for a "yes" or "no".

24 JUDGE FOUNTAIN: Well, I think there should be some
25 specific identification about the complaints.

1 MR. KELLEHER: I intend to, Your Honor, and I have
2 copies of the --

3 JUDGE FOUNTAIN: Well, I don't want to hear his
4 explanation unless he is testifying as to a specific
5 complaint.

6 MR. KELLEHER: That was my intention also. My
7 question was to ask for an affirmative or negative on that
8 fact.

9 JUDGE FOUNTAIN: He is ready to explain things but I
10 am just wondering whether it will be specific enough.

11 MR. KELLEHER: I would propose to simply use the
12 documents as reference and have him testify from them.

13 JUDGE FOUNTAIN: Just make sure he knows what it's
14 all about.

15 BY MR. KELLEHER:

16 Q. Now, I will show you a document that I will ask
17 the stenographer to mark as Protestants Exhibit No. 1.

18 (Whereupon, the document was marked
19 as Protestant's Exhibit No. 1
20 for identification.)

21 MR. KELLEHER: And I will represent for the record
22 that that consists of five pages. I believe it also
23 consists also, then, within those five pages, of four
24 separate Public Utility Commission orders dated February
25 13, 1986; May 12, 1986; May 26, 1987; and June 16, 1987.

BY MR. KELLEHER:

1 Q. Is that a correct summary of what is before you?

2 (Witness perusing document.)

3 JUDGE FOUNTAIN: May I see them?

4 MR. KELLEHER: Yes.

5 (Documents handed to Judge Fountain.)

6 A. Yes, that's correct.

7 BY MR. KELLEHER:

8 Q. You may keep that copy, if you would.

9 Are you familiar with those four proceedings and the
10 action that led to those four orders?

11 A. Yes.

12 Q. Do those all relate to your corporation?

13 A. They relate to it, yes.

14 Q. Now, would you explain the circumstances of the
15 first one that is dated, I believe, February, 1986? That
16 is on the top.

17 (Witness perusing document.)

18 Q. That would be this one on top, February, 1986.

19 (Witness perusing document.)

20 Q. Am I correct that a complaint was filed against
21 you and that the complaint was sustained?

22 (Witness perusing document.)

23 A. I want to see what it is for first.

24 Q. I will represent to you that I believe the top
25 page is a separate order distinct from the others. I

1 think it is self-contained on that first page.

2 A. It doesn't say what we done.

3 Q. Well, my question is do you recall what that
4 proceeding was and what it was for?

5 A. I don't actually recall what it was for, no.
6 That's why I'm trying to find out what it was for.

7 JUDGE FOUNTAIN: Well, it is listed there, Mr.
8 Newberry.

9 THE WITNESS: What page is that?

10 MR. KELLEHER: The top page.

11 JUDGE FOUNTAIN: Look at the top page, paragraph
12 four. The claim is that you transported persons or
13 property for compensation between two points in
14 Pennsylvania in violation of the Public Utility Code.

15 BY MR. KELLEHER:

16 Q. Now, as of that point in time, Mr. Newberry,
17 February, 1986, and before you did not have PUC
18 authorization, isn't that correct?

19 A. Yes, that's correct.

20 Q. If you would turn to the next one, then, I
21 believe dated May, 1986, do you recall the circumstances
22 of that?

23 (Witness perusing document.)

24 Q. If I may direct your attention to the second
25 paragraph it does relate to the transportation of

1 passengers intrastate in limousine service without a
2 certificate, is that correct?

3 A. Yes.

4 Q. Again, at that point in time you did not have
5 PUC authority to do so, isn't that correct?

6 A. Yes.

7 Q. The third one is dated May 26, 1987. And I
8 believe in the body of that order is a similar factual
9 circumstance in that you were ordered to cease
10 transporting passengers intrastate in limousine service
11 without a certificate?

12 A. Yes.

13 Q. And at that time there was no such certificate
14 issued to you?

15 A. That's correct.

16 Q. Now, the fourth one is dated June 16, 1987. And
17 that one consists of two pages. I do not believe from the
18 face of it it indicates precisely what the circumstances
19 were. Can you recall what that violation had to do with?
20 Those would be the last two pages of the package.

21 A. I don't really recall exactly what it was at
22 that time.

23 JUDGE FOUNTAIN: Look on the last page. I think
24 it's the same charge, transporting persons or property in
25 intrastate.

1 BY MR. KELLEHER:

2 Q. So that from the face of those documents,
3 Mr. Newberry, on four different occasion in 1986 and 1987,
4 complaints were filed against you for transporting
5 passengers in limousines in Pennsylvania without PUC
6 authority, isn't that correct?

7 A. That's correct.

8 Q. Were there any other complaints issued against
9 you or violations found?

10 A. As far as I know, no.

11 Q. And you will admit that those four do relate to
12 you and your business?

13 A. They relate to it, yes, with an explanation.

14 JUDGE FOUNTAIN: Well, your lawyer on redirect
15 examination, unless Mr. Kelleher asks you that question, I
16 am sure will bring it out.

17 BY MR. KELLEHER:

18 Q. Let me show you another document that I will
19 have marked for the record as Protestants Exhibit No. 2.

20 (Whereupon, the document was marked
21 as Protestant's Exhibit No. 2
for identification.)

22 MR. KELLEHER: I will again represent for the record
23 that those are copies of pages from Yellow Pages
24 advertising in the Lehigh Valley in 1989.

25 BY MR. KELLEHER:

1 Q. Did you advertise in the Lehigh Valley Yellow
2 Pages in that year?

3 A. Which year?

4 Q. 1989.

5 A. Yes.

6 Q. In the first page, in the center of the page,
7 there is a block with an advertisement for D's Limousine.
8 Is that the advertisement that you placed?

9 A. Yes.

10 Q. If I read from the body of that advertisement it
11 offers services to all airports, is that correct?

12 A. Yes.

13 Q. Does that include the ABE airport and the
14 Philadelphia airport?

15 A. No.

16 Q. Those two aren't --

17 A. Well, sir, if you look at the ad a little
18 further it does not have a PUC number. It has an ICC
19 number.

20 Q. Correct.

21 A. And all airports out of state I cover. There is
22 no number for PUC there. So why would that be against the
23 law?

24 Q. I am not suggesting anything is against the law,
25 Mr. Newberry. I am just asking if in the body of the

1 advertisement there is any indication that "all airports"
2 in any way excludes either the ABE airport or the
3 Philadelphia airport or the Wilkes-Barre/Scranton airport.

4 MR. PEPPER: Objection. The document speaks for
5 itself, Your Honor.

6 JUDGE FOUNTAIN: Yes, it does. Sustained.

7 BY MR. KELLEHER:

8 Q. Turn to the second page of that, Mr. Newberry.
9 That is also a Yellow Pages advertisement for the Lehigh
10 Valley for 1989. Is that a similar ad that you placed?

11 A. Yes.

12 Q. And, again, the text of the advertisement is the
13 same as the earlier one?

14 A. Yes.

15 Q. Again, listing service to all airports?

16 A. Yes. With my ICC number right underneath it.

17 JUDGE FOUNTAIN: You know, you have language in
18 there that could be interpreted in many ways. You have
19 door to door service to all points.

20 THE WITNESS: Sir, just about all your limousine
21 companies say the same thing, to all airports. If you
22 read the ads just about every one of them say the same
23 thing. They are not permitted to go to all airports.
24 What if you called up and wanted to go to Chicago or
25 Baltimore? That doesn't mean they are permitted for that.

1 JUDGE FOUNTAIN: Well, I think the least you can say
2 about that ad is that it has a certain ambiguity in there.

3 THE WITNESS: That's true.

4 JUDGE FOUNTAIN: All right, Mr. Kelleher.

5 BY MR. KELLEHER:

6 Q. With respect to the two Plymouth vans that you
7 -- I'm sorry -- the Dodge vans that you own and operate
8 at the present time, Mr. Newberry, what is the mileage of
9 those vehicles, approximately?

10 A. I beg your pardon?

11 Q. The mileage on the two Dodge vans.

12 A. One is around 90-something-thousand and the
13 other is about 69,000, 70, I would imagine.

14 Q. And I believe you testified earlier that the
15 maintenance on all your vehicles is contracted out?

16 A. Yes.

17 Q. So it is performed somewhere other than the
18 location where the vehicles are stored and kept?

19 A. That's correct.

20 Q. You also testified about the driver checklist
21 that they would review before beginning any trip. If in
22 the process of conducting that checklist damage or a
23 malfunction or the need for some maintenance was
24 discovered by the driver am I correct that the maintenance
25 or repairs could not be performed on-site? It would have

1 to be taken to the location where the outside contractor
2 is located?

3 A. Well, no. It could be -- according to what it
4 is, okay, if it is something simple that you can fix,
5 fine, I can do it myself sometimes. If it is something
6 simple. If it is major brakes or lights or anything like
7 this it goes to the contractor up the street.

8 Q. How far is that contractor's facility located?

9 A. About a mile-and-a-half.

10 Q. Now, you testified regarding the need for this
11 service that you received calls for sight-seeing trips to
12 the Poconos mountains and other locations in that area?

13 A. Yes.

14 Q. You will agree with me that the Pocono mountains
15 are located in Monroe, Carbon and Pike Counties, rather
16 than Lehigh, Northampton, Bucks or Philadelphia Counties?

17 A. Well, I believe if you look at what I am
18 applying for...

19 Q. Yes, sir?

20 A. ... you will see that they are probably located
21 in that area, the permits that I am applying for. We do
22 get calls from these people, yes.

23 Q. My understanding of your application is that you
24 are seeking a certificate for the right to transport as a
25 common carrier persons in group and party service between

1 points in the counties of Lehigh, Northampton, Bucks and
2 Philadelphia, is that correct?

3 MR. PEPPER: That's correct.

4 A. That's correct.

5 BY MR. KELLEHER:

6 Q. My question to you is that authority, if
7 granted, would not permit you to transport passengers to
8 Monroe County or Carbon County or Pike or other Pocono
9 locations.

10 A. Yes, it would. If they charter that van in any
11 one of those counties, you could take them on any trip you
12 want to into the Poconos. That is a legal movement.

13 Q. You certainly couldn't originate a trip in any
14 of those counties, is that correct?

15 A. That's correct.

16 Q. Now, with respect to the calls that you received
17 for airport transportation, does that relate to calls for
18 transportation to the ABE or Philadelphia or
19 Wilkes-Barre/Scranton airports?

20 A. Yes.

21 Q. Would that be for group transport to those or
22 for luxury limousine transport?

23 A. That would be group.

24 Q. And you indicated, however, that although you
25 testified that you received calls about that type of

1 service you have not kept any log or record of when those
2 calls were made or what requests for service they were?

3 A. Well, all of your airlines, and every limousine
4 company in town knows it, all the airlines when they get
5 in a bind the first thing they do is they call the --

6 JUDGE FOUNTAIN: I didn't hear you. What was your
7 last sentence?

8 THE WITNESS: I beg your pardon?

9 JUDGE FOUNTAIN: What was your last sentence?

10 THE WITNESS: All the limousine companies and
11 everybody else that is familiar, when the airlines get in
12 a bind, if they don't have a full plane, they call the
13 limousine companies for van services to shuttle these
14 people to Wilkes-Barre, Scranton. This goes on all the
15 time, okay. It's just not unusual.

16 BY MR. KELLEHER:

17 Q. Well, again, under the terms of the application
18 that you filed, you would not be able to transport someone
19 from Lehigh and Northampton Counties to the
20 Wilkes-Barre/Scranton airport.

21 A. Why?

22 Q. Because that is located outside the four
23 counties --

24 A. It doesn't matter. If you pick up in Lehigh,
25 Northampton or Berks you can take them anywhere they want

1 in the state and drop them off.

2 Q. Perhaps that will be a matter for Judge Fountain
3 to decide, or the Commission, but with all due respect I
4 disagree with you in your interpretation of the Code.

5 If I could clarify one more thing for the record,
6 you did indicate through Counsel that you will provide
7 copies of your 1988 and 1989 tax returns when filed?

8 MR. PEPPER: That's correct.

9 MR. KELLEHER: Very well.

10 I have no other questions on cross-examination, Your
11 Honor.

12 JUDGE FOUNTAIN: Mr. Pepper?

13 MR. PEPPER: Yes, I do, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. PEPPER:

16 Q. Mr. Newberry, looking at the first Commission
17 order which is dated or entered February 13, 1986, I
18 direct your attention up to the top where there was a
19 decision by an Administrative Law Judge, December 31,
20 1985. Is it your recollection that that dealt with
21 conduct in 1985?

22 A. That's correct.

23 Q. More than four years ago?

24 A. Yes, sir, that's correct.

25 Q. And again with respect to the order entered May

1 12, 1986, that deals with an Administrative Law Judge's
2 decision of March 28, 1986?

3 A. Yes, sir, that's correct.

4 Q. Is it your recollection that this conduct was
5 either in late 1985 or early 1986?

6 A. That's correct.

7 Q. With respect to the order entered May 26, 1987,
8 that was Judge Lovenwirth's decision dated March 30, 1987,
9 and again that would be conduct in late '86, early '87?

10 A. That's correct.

11 Q. And finally the order dated June 16, 1987, that
12 deals with, again, Judge Lovenwirth's decision of May 4,
13 1987. And is it your recollection that that was conduct
14 in late '86?

15 A. That's correct.

16 Q. Since late '86 have you had any difficulties
17 with the PUC with respect to citations, violations or
18 anything else?

19 A. None.

20 Q. Sir, do you have any recollection as to the
21 circumstances of those four orders?

22 A. Yes, I do.

23 Q. Would you like to explain them?

24 A. Yes, I will explain them to you. It was a
25 family affair to start out and we had hired a young lady,

1 which was a niece to my wife. We went on vacation and
2 when we came back she had notified her aunt that she
3 didn't -- we didn't see her in her will.

4 JUDGE FOUNTAIN: She what?

5 THE WITNESS: It's a family squabble. She didn't
6 see her name in her will.

7 BY MR. PEPPER:

8 Q. Why don't you give the young lady's name to the
9 Judge.

10 A. Her name was Nancy Strohl.

11 Q. With respect to Ms. Strohl, how old was Ms.
12 Strohl at that time?

13 A. She was in her mid-30's -- or early 30's.
14 Excuse me.

15 Q. So going back about four years or so, she would
16 have been in her mid-20's, late to mid-20's?

17 A. Yes.

18 Q. What position did she have with your company at
19 that time?

20 A. She was a secretary and took our phone calls and
21 took care of our books for us.

22 Q. What other responsibilities did she have?

23 A. She pretty much ran the company itself other
24 than the sales. At that time I was doing the driving. I
25 did probably 90 percent of the driving at that time. I

1 was never in the office. She took care of all the books,
2 which she went through a school. She was supposed to have
3 been qualified to do this.

4 Q. What other representations to you did she make
5 when she was hired with respect to her experience and
6 training?

7 A. That -- say that again.

8 Q. What did she tell you when she was hired as to
9 what she was qualified to do?

10 A. She was qualified to take care of our books and
11 take care of our office, all office procedures. Sometimes
12 she was very good at it. In fact we found out at later
13 date she was too darned good at it.

14 Q. Did there come a time when you discovered some
15 problems with her, not only financially as well as the
16 work she was performing?

17 A. Yes. We -- can I say something?

18 Q. Certainly.

19 A. Her ex-husband is sitting here in the room.

20 Q. Yes. He will testify.

21 A. Okay. One of the charges I was charged to, and
22 me and my attorney discussed all this, was a limousine
23 that went -- that had made a wedding. When she got mad
24 at her aunt she told her aunt -- she called the FBI, she
25 called the Internal Revenue, she called everybody in that

1 she could think of. We are still -- in total time we have
2 paid \$26,000 for this mistake. We are still paying for it
3 and I think it is time that this is stopped.

4 We loaned her husband for her step-daughter, I
5 believe it was -- he can tell you the story -- a
6 limousine. She turned us in for this. She said that we
7 took money for this and everything else. That is a lie.
8 We never did. We never took nothing from them. Out of
9 our good heart, which we shouldn't have done, we loaned
10 them the limousine for the daughter's wedding. He drove
11 it himself.

12 And I came back to you at a later date and told you
13 I thought the judge ought to know about this. And we
14 discussed writing a letter to the judge. So these were
15 the type of charges that we were trumped up on.

16 JUDGE FOUNTAIN: Were you at a hearing concerning
17 this or did you just negotiate a settlement with the
18 Commission?

19 MR. PEPPER: Sir, I can answer that. That was a
20 negotiated settlement. It was a family affair at that
21 time and with my client's permission we negotiated a
22 settlement because of the nature of it.

23 There were some additional problems that
24 Mr. Newberry will testify to as far as internal
25 bookkeeping and everything else all stemming from this one

1 young lady.

2 JUDGE FOUNTAIN: Well, do you think all that is
3 relevant?

4 MR. PEPPER: Yes, sir, I do. Mr. Kelleher has
5 brought up these four violations and we would like to
6 explain them. I understand that --

7 JUDGE FOUNTAIN: I will let him explain. But I am
8 just wondering how far should I permit him to go.

9 MR. PEPPER: Well, we are not going to get into --

10 JUDGE FOUNTAIN: I don't want to reopen old wounds
11 or anything like that, especially if I don't think it is
12 relevant.

13 MR. PEPPER: I understand, Your Honor.

14 JUDGE FOUNTAIN: What these violations were brought
15 to bear in this matter was to see whether the man has a
16 propensity for obeying our rules.

17 MR. PEPPER: I understand, Your Honor. Essentially
18 Mr. Kelleher's cross-examination, I would assume, is
19 directed towards Mr. Newberry's character and his
20 company's attitude --

21 JUDGE FOUNTAIN: Well, character is not per se an
22 issue. What is an issue is whether the gentleman has a
23 propensity to observe our rules and regulations, and these
24 may or may not -- these complaints may or may not prove
25 that he does or he doesn't.

1 MR. PEPPER: I understand, Judge. My suggestion to
2 the Court is --

3 JUDGE FOUNTAIN: But I don't want to go back. I
4 don't want to retry a divorce case. I don't want anything
5 brought up that is going to slander or libel somebody.
6 Especially if it isn't necessary.

7 MR. PEPPER: I understand, Judge. My purpose in
8 going through this redirect with Mr. Newberry insofar as
9 these violations is to show for the Court that in fact
10 they were not intentional violations, they were not
11 something that was calculated and knowingly committed in
12 violation of PUC regulations. They stemmed from an
13 internal problem with one of the employees that happened
14 to be family and they, in essence, were inadvertent
15 violations. I think that is what Mr. Newberry's testimony
16 is going to show.

17 JUDGE FOUNTAIN: Are you going to go through them
18 complaint by complaint?

19 MR. PEPPER: No, sir. I am just going to ask
20 Mr. Newberry to give the overall scenario as to how these
21 all developed with respect to the young lady that he has
22 referred to.

23 THE WITNESS: I can make it short and sweet. I
24 don't want to dig up nothing either.

25 But anyway, whenever she left our employment, all of

1 a sudden we get a call from the PUC that they had someone
2 that made complaints against us. These are the
3 complaints. She knew exactly what to go to, what to tell
4 them and everything else.

5 They didn't come in. They didn't check our books.
6 They didn't check nothing. She knew exactly what to tell
7 them.

8 You can determine anyway you want to from this.
9 It's still very bad blood in the family. It has cost the
10 gentleman a divorce, a family separation. It just goes on
11 and on. So I wanted to explain to you. I don't feel as
12 though what she has done to us is warranted. I think it
13 is very unjust and I think the Court should look at it.

14 JUDGE FOUNTAIN: It would have helped had you
15 contested that.

16 THE WITNESS: I beg your pardon?

17 JUDGE FOUNTAIN: It would have helped had you
18 contested these complaints, to get your story on the
19 record.

20 THE WITNESS: Sir, me and my attorney discussed all
21 this, and if I may say so the PUC moves in funny ways.
22 Sometimes they don't --

23 JUDGE FOUNTAIN: You can't say that.

24 THE WITNESS: So we felt it would be just useless.

25 JUDGE FOUNTAIN: All right.

1 BY MR. PEPPER:

2 Q. Mr. Newberry, with respect to these violations,
3 and all of them stemming from the actions of this young
4 lady that at that time was in your employ, did you or any
5 other officers of the corporation authorize these
6 violations?

7 A. No.

8 Q. Knowingly authorize them?

9 A. No.

10 Q. Have you ever authorized any violation?

11 A. No.

12 MR. PEPPER: No other questions.

13 JUDGE FOUNTAIN: Do you have anything?

14 MR. KELLEHER: No, Your Honor.

15 (Witness excused.)

16 Whereupon,

17 JOAN BRAMFITT

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. PEPPER:

21 Q. Would you state your name for us, please?

22 A. Joan Bramfitt.

23 Q. Ma'am, again, I am going to ask that you keep
24 your voice up.

25 Mrs. Bramfitt, how are you acquainted with the

1 Applicant in this particular case?

2 A. I am an independent contractor and I work for
3 D's Limousine Service.

4 JUDGE FOUNTAIN: You are going to have to do much
5 better than that. Please don't talk in conversational
6 tones. When you testify, look up here and testify. He
7 knows what you are going to say; I don't.

8 BY MR. PEPPER:

9 Q. Ma'am, what is the nature of your business?

10 A. I drive a limousine.

11 Q. And how long have you been affiliated with
12 Mr. Newberry?

13 A. For five years.

14 Q. And in what capacity? Always as a driver?

15 A. Yes.

16 Q. Would it be fair to say that you are acquainted
17 with his operation?

18 A. Yes.

19 Q. How would you describe his operation?

20 A. I'm not sure what you want.

21 Q. Would you consider it a professional operation?

22 A. Yes, I would.

23 Q. Why so?

24 A. Well, I feel very safe using the equipment
25 because I know it's checked out. I know that I am going

1 to be informed about things. If I have a question, if I
2 need directions, I know that that is available. I feel
3 very confident when I pick up a car and take a trip.

4 Q. With respect to the equipment itself have you
5 ever had any major difficulties with the equipment?

6 A. No.

7 Q. Any safety violations that you have ever noted?

8 A. No.

9 Q. How would you characterize the condition of the
10 equipment?

11 A. I would say the equipment is in very good shape.

12 Q. Do you find that Mr. Newberry and his company
13 pay attention to the condition of his equipment?

14 A. Yes. If I ever have a problem I just ask that
15 it be looked at and it is taken care of, and if it can't
16 be taken care of immediately they give me another car and
17 they have that particular vehicle taken care of.

18 Q. Ms. Bramfitt, you have heard Mr. Newberry
19 testify that he believes there is a need for additional
20 group and party tour service in the area applied for. Are
21 you familiar with the demand?

22 A. Yes.

23 Q. Would you describe that for us?

24 A. I am a part-time employee because I do a lot of
25 volunteer work and I am associated with a lot of

1 organizations and quite often I am called and asked about
2 transportation. I am involved with a country club where
3 there are teams that need to be transported. I am
4 associated with a music school where there are fund
5 raisers or children who need to be transported somewhere.
6 I also have friends who like to take trips together,
7 shopping, whatever. And I get calls quite often asking
8 about my company.

9 Q. Do you believe Mr. Newberry's company is capable
10 and qualified to perform those services?

11 A. Yes, I do.

12 Q. Why do you believe that?

13 A. Well, he has qualified drivers and he has vans,
14 he has equipment.

15 JUDGE FOUNTAIN: Have you ever worked for anybody
16 else in the same line?

17 THE WITNESS: No.

18 BY MR. PEPPER:

19 Q. Are you familiar with the other lines in the
20 area?

21 A. I know their names but I don't know anything
22 else about them.

23 MR. PEPPER: Thank you.

24 Thank you, Your Honor.

25

CROSS-EXAMINATION

1
2 BY MR. KELLEHER:

3 Q. Ms. Bramfitt, do you have any other source of
4 income at the present time other than your independent
5 contractor work for Mr. Newberry?

6 A. No.

7 Q. So he is your sole source of income at the
8 present time?

9 A. Yes.

10 Q. You indicated in response to the Judge's
11 question that you have never worked for another limousine
12 or transportation company?

13 A. That's correct.

14 Q. So you are not familiar with how any other
15 limousine or transportation company is operated?

16 A. No.

17 Q. Or what their equipment is like or what their
18 safety procedures are like?

19 A. No.

20 Q. In the five years that you have worked for D's
21 Limousine Service what types of trips have you driven or
22 what types of equipment have you driven?

23 A. I have driven all of their equipment, vans,
24 stretches and towncars.

25 Q. From where to where?

1 A. I do mostly from Lehigh Valley to Kennedy
2 airport, which is the most common trip that I take.

3 JUDGE FOUNTAIN: That would be interstate.

4 THE WITNESS: Yes. Also New York City I do.

5 BY MR. KELLEHER:

6 Q. Have you ever driven any trips that began in
7 Pennsylvania and were limited to Pennsylvania?

8 A. No.

9 Q. Have you ever picked up any passengers or driven
10 anyone to the Air Products offices or facilities?

11 A. To them?

12 Q. Yes.

13 A. From an airport.

14 Q. From which airports?

15 A. From Kennedy or Newark.

16 Q. Have you ever picked up any passengers at the
17 Air Products offices or facilities and driven them
18 somewhere else?

19 A. Yes.

20 Q. Where were they driven to?

21 A. New York City, Newark or Kennedy.

22 Q. You testified that you have spoken with people
23 and you are familiar with groups and you have received
24 inquiries regarding the need for this type of group and
25 party service. Did you ever make any written record of

1 who those requests were made by and what they were for?

2 A. Not written.

3 Q. Did you ever keep any logs of those requests?

4 A. No.

5 Q. Did you ever keep any record of what period of
6 time those requests were made?

7 A. No.

8 MR. KELLEHER: I have no other questions, Your
9 Honor.

10 JUDGE FOUNTAIN: Do you have any redirect?

11 MR. PEPPER: Very briefly, Judge.

12 REDIRECT EXAMINATION

13 BY MR. PEPPER:

14 Q. Ma'am, you are married.

15 A. Yes.

16 Q. Your husband is employed?

17 A. Yes.

18 Q. So this job is not the sole source of income for
19 your family?

20 A. No. This is pin money for me.

21 MR. PEPPER: Thank you.

22 No other questions.

23 MR. KELLEHER: No recross.

24 MR. PEPPER: Thank you, Ma'am.

25 (Witness excused.)

1 Whereupon,

2 FRANKLIN R. STROHL, JR.

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PEPPER:

6 Q. Mr. Strohl, would you state your full name?

7 A. My name is Franklin R. Strohl. Jr., P.O. Box
8 13, Slatington, Pennsylvania 18080.

9 Q. Again, Mr. Strohl, I will ask you to keep your
10 voice up.

11 How are you acquainted with the Applicant in this
12 case?

13 A. Well, I was married to Mr. Newberry's wife's
14 niece before they went into business.

15 JUDGE FOUNTAIN: Now, who do you mean by "they"?
16 The Newberrys?

17 THE WITNESS: I was married to Nancy.

18 JUDGE FOUNTAIN: I know. But you said "before they
19 went into business".

20 THE WITNESS: I was married to Nancy before --

21 JUDGE FOUNTAIN: Before the Newberrys went into
22 business?

23 THE WITNESS: Before they went into business.

24 BY MR. PEPPER:

25 Q. And the Nancy Strohl that you have referred to

1 is the same Nancy Strohl that Mr. Newberry testified to a
2 few moments ago?

3 A. That's correct.

4 Q. Are you familiar with the circumstances that he
5 was testifying to with respect to your ex-wife?

6 A. Yes.

7 Q. Did he fairly categorize the conduct that led to
8 these citations?

9 A. He did. Because I wasn't aware in the beginning
10 of it until she was making calls and saying all kinds of
11 -- making allegations about Bob and her aunt that I knew
12 were not true. Nancy has a history -- and that has been
13 documented -- with alcohol, drug abuse. She has been
14 under psychiatric -- things that her aunt wasn't aware
15 before she had this job. I wasn't aware of them either.

16 And I know that I drove, personally, I drove, just a
17 personal thing, I borrowed the car and there was no money
18 exchanged. But of course there was so much going on at
19 the time with Nancy quitting there and making all these
20 false allegations against the company and me getting into
21 a divorce situation that nothing materialized, really, and
22 Bob just got stuck with everything.

23 JUDGE FOUNTAIN: Who do you mean by "Bob"?

24 THE WITNESS: Mr. Newberry.

25 BY MR. PEPPER:

1 Q. Mr. Strohl, have you on occasion driven for
2 Mr. Newberry's company?

3 A. Yes, I drove -- I am in the transportation
4 thing, too. I have about 32 years of tractor trailer
5 driving. I had 2.2 million miles without an accident. I
6 drove for Bob since the beginning, not basically for a
7 source of income but I helped him out a lot when he
8 started and I still do. And I am familiar with the
9 operation of the equipment. I think I would be the first
10 one with all the experience that I had that I am not going
11 to go down the road with something that is not safe. I've
12 blown a tire on a brand new car that he had. You know,
13 there's things that are going to happen. But he keeps the
14 equipment --

15 JUDGE FOUNTAIN: We are getting way off the track.

16 MR. PEPPER: Thank you.

17 BY MR. PEPPER:

18 Q. Would you describe his operation as professional
19 and his equipment safe and in knowledge condition?

20 A. Yes. And I am familiar with other companies. I
21 had helped a guy out in Lehighton at one time and I know
22 they didn't -- it really was not a professional
23 organization. I think it is dissolved now. I'm not sure.

24 Q. Mr. Strohl, are you familiar with the demand --

25 JUDGE FOUNTAIN: Wait a minute. What is the purpose

1 of that paragraph that he gave?

2 THE WITNESS: Well, I said that I drove for another
3 limousine company just to help the guy out. This is
4 before I drove for D's, you know, and they didn't have any
5 equipment check or nothing. You just went up there and
6 got in and took off.

7 MR. PEPPER: Sir, the purpose of that paragraph is
8 that in fact Mr. Strohl is aware of the operation of other
9 carriers that are perhaps less qualified.

10 BY MR. PEPPER:

11 Q. Mr. Strohl, you heard Mr. Newberry testify with
12 respect to what he believes to be a demand for additional
13 group and party service. Are you familiar with that
14 demand?

15 A. Yes, I am familiar with some of it. And I
16 didn't document anything either because I didn't see any
17 need to document something that I have had people -- and
18 I have talked to Bob a long time ago about that there is a
19 demand for that. I know people personally that have needs
20 for it. I could supply their names. I could do any
21 amount of things. I just didn't document it because it
22 was not necessary.

23 Q. Do you believe Mr. Newberry's company could meet
24 that demand and supply those services?

25 A. I think he could with additional equipment, with

1 additional vans, yes.

2 MR. PEPPER: Thank you.

3 No other questions.

4 JUDGE FOUNTAIN: Do you have anything, Mr. Kelleher?

5 CROSS-EXAMINATION

6 BY MR. KELLEHER:

7 Q. Mr. Strohl, you did anticipate some of my
8 questions in that you already testified about your
9 personal knowledge of people requesting the service, but
10 you didn't keep track of who they were.

11 A. No. I can supply names, though. I didn't see
12 any need. I don't think anybody is going to put things
13 down if there is nothing -- you are going to put a note
14 down if you are capable of doing. If you can't take the
15 job, you are not going to document anything.

16 JUDGE FOUNTAIN: Well, a lot of companies would
17 acknowledge that keeping a log on the demand is very
18 effective. Otherwise it is all hearsay.

19 THE WITNESS: Well, I understand that. It's just
20 that I didn't know that we were getting into it.

21 JUDGE FOUNTAIN: Go ahead, Mr. Kelleher.

22 BY MR. KELLEHER:

23 Q. Mr. Strohl, you testified about the
24 circumstances surrounding your ex-wife and her
25 relationship with her uncle or her --

1 A. I beg your pardon?

2 Q. Are these the trips that Mr. Newberry actually
3 performs?

4 A. Yes, sir.

5 Q. Did you ever receive call for trips that
6 Mr. Newberry can't perform, such as group and party
7 service?

8 A. Well, I have been there since, let's say, May of
9 1989 and since then, as far as I know, we have PUC
10 licenses and ICC licenses. So I am assuming that whatever
11 we call, whatever we get, whatever calls we get for
12 bookings, we book if they are acceptable to the people
13 that are calling.

14 Q. Do you actually take the calls?

15 A. Yes, sir.

16 MR. PEPPER: No other questions.

17 CROSS-EXAMINATION

18 BY MR. KELLEHER:

19 Q. Mr. Prayner, in the eight months or so that you
20 worked for Mr. Newberry, you said that you have received
21 calls for ICC and PUC trips?

22 A. I assume that, yes.

23 Q. And you have booked both of them?

24 A. Yes, sir.

25 Q. Both of those types?

1 A. Both types?

2 Q. Yes.

3 A. Well, to me a booking is a booking. I don't
4 break it down to whether it's an ICC or PUC.

5 JUDGE FOUNTAIN: Well, you should if you just have a
6 ICC license.

7 THE WITNESS: I should if we have a ICC license?

8 JUDGE FOUNTAIN: Yes. You should break down the
9 trips because under the law you are not supposed to do any
10 PUC work.

11 MR. STROHL: I don't think Art knows the difference.

12 JUDGE FOUNTAIN: I'm not interested in what you
13 think. I'm addressing the witness.

14 MR. KELLEHER: May I proceed?

15 JUDGE FOUNTAIN: Go ahead, Mr. Kelleher.

16 BY MR. KELLEHER:

17 Q. Mr. Prayner, in the course of your work for
18 Mr. Newberry have you taken calls and booked customers for
19 trips from one point in Pennsylvania to another?

20 A. Yes, we have.

21 Q. And can you estimate how many that would be
22 compared to the number of calls for trips that began in
23 Pennsylvania and went someplace else outside of
24 Pennsylvania?

25 A. It would have to be a rough estimate, of course.

1 Q. Yes, sure.

2 A. I would guess it is maybe one out of ten. The
3 majority of the trips are New York City, La Guardia, JFK
4 and Newark.

5 Q. And that would be 90 percent of the work?

6 A. Right. That is a rough guess.

7 Q. Your estimate, again, based on your several
8 months of experience and your job taking those calls and
9 booking the trips, would be that ten percent of the calls
10 that you have taken and trips that you have booked would
11 be for trips within Pennsylvania?

12 A. I would say that is a fairly good guess.
13 Naturally you can't pinpoint it without statistics.

14 Q. What places in Pennsylvania, within
15 Pennsylvania, are usually booked for trips?

16 A. Philadelphia.

17 Q. The airport?

18 A. Yes.

19 Q. Shopping, shows, things like that?

20 A. Basically airport.

21 Q. Have you done any work for weddings within
22 Pennsylvania, places around the Lehigh Valley?

23 A. During the summer -- well, during the wedding
24 season, which is basically from May to September or
25 October.

1 Q. And that would be from May, 1989, to the present
2 time?

3 A. Yes.

4 Q. Any work for people who were going to or from
5 the Air Products facilities?

6 A. They are practically 100 percent out of New
7 York.

8 Q. Do any of those go from Air Products to
9 someplace around the Lehigh Valley or in Pennsylvania?

10 A. As I say, if it is, it is very, very small.

11 Q. Can you estimate the number or the percentage of
12 calls or requests that are made for vans or trips of that
13 type? As opposed to limousines or wedding services.

14 A. Well, it's difficult to -- as I say it's a small
15 percentage. It's difficult to --

16 Q. The same ten percent like before?

17 A. I would say so, yes.

18 Q. And the rest is all for limousine service?

19 A. Right.

20 MR. KELLEHER: I have no other other questions of
21 the witness.

22 MR. PEPPER: No other questions.

23 JUDGE FOUNTAIN: Thank you.

24 MR. PEPPER: Your Honor, I would like to recall
25 Mr. Newberry to clarify a point.

1 JUDGE FOUNTAIN: I will let you recall him but I
2 want to know if you have any public witnesses here. So
3 far you have given me Mr. Newberry and his employees.

4 MR. PEPPER: I understand.

5 MR. KELLEHER: Your Honor, with respect to
6 Mr. Newberry testifying may I ask for an offer of proof?
7 Because if it is to contradict the testimony of one of his
8 own witnesses I am going to object to that.

9 MR. PEPPER: It's not to contradict it at all, Your
10 Honor. It's to explain it.

11 JUDGE FOUNTAIN: Well, the explanation may include a
12 contradiction.

13 MR. PEPPER: I don't believe it is a contradiction,
14 Your Honor.

15 JUDGE FOUNTAIN: All right. We will see.

16 MR. PEPPER: Mr. Newberry.

17 JUDGE FOUNTAIN: Do you want to give him an offer of
18 proof?

19 MR. PEPPER: Certainly.

20 Mr. Newberry will testify that he has been the
21 holder of a management contract for a PUC right that is
22 subject to transfer at this point. It has been through
23 the PUC as well.

24 JUDGE FOUNTAIN: Well, does it permit him to do
25 business on an intrastate basis?

1 MR. PEPPER: Yes, sir, it does.

2 JUDGE FOUNTAIN: Okay. Let's hear it.

3 Whereupon,

4 D. E. NEWBERRY

5 having previously been duly sworn, testified further as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. PEPPER:

9 Q. Mr. Newberry, you have been previously sworn.

10 A. Yes.

11 We have management rights from the said permits we
12 discussed prior from those counties. And I was informed
13 by the PUC, me and my attorney both were, underneath the
14 management right it was legal for us to go ahead and to
15 operate. This is a typical procedure, they say, the
16 Public Utility Commission, when you are purchasing
17 permits. And underneath this --

18 JUDGE FOUNTAIN: I thought that was still in
19 litigation.

20 MR. PEPPER: I'm sorry, sir?

21 JUDGE FOUNTAIN: I said I thought that transfer was
22 still in litigation. Is he alluding to the transfer that
23 is pending or what?

24 MR. PEPPER: Yes, sir, he is.

25 JUDGE FOUNTAIN: That case has not been completed.

1 Was there any emergency temporary authority granted?

2 MR. PEPPER: Yes, sir, there was. If I may, Your
3 Honor, that dealt with Reiss Amusements, limousine service
4 by them. Reiss Amusements put the -- supposedly put the
5 rights in safe keeping. There was confusion, not on our
6 part, but with Reiss Amusements and the PUC. In actuality
7 the rights were at one point withdrawn by the PUC because
8 of some confusion by Reiss Amusements.

9 That was litigated before the Secretary and the
10 Secretary then approved Mr. Newberry to handle the
11 management rights with the understanding that an immediate
12 application for transfer would be made.

13 JUDGE FOUNTAIN: Do you have anything in writing to
14 that effect?

15 MR. PEPPER: I don't have it with me, sir. I can
16 submit it to you.

17 JUDGE FOUNTAIN: I want it submitted to me.

18 MR. PEPPER: You will get it.

19 BY MR. PEPPER:

20 Q. Is that a fair characterization of the status of
21 those rights?

22 A. Yes. And as far as I know any movements we made
23 beyond any reasonable doubt was 100 percent legal.
24 Because I was informed by the Public Utility Commission,
25 also I was informed by my attorney all through this. I

1 paid a lot of money for this. It better be right.

2 JUDGE FOUNTAIN: What your employee was alluding to,
3 the gentleman that just testified --

4 THE WITNESS: Yes. He takes some PUC trips.

5 JUDGE FOUNTAIN: And those PUC trips are the ones
6 that you handled under this PUC management contract?

7 THE WITNESS: That's correct, sir. And I was
8 informed of this by the Public Utility Commission and by
9 my attorney that it is perfectly legal.

10 MR. KELLEHER: May I ask one question on
11 cross-examination?

12 JUDGE FOUNTAIN: Sure.

13 CROSS-EXAMINATION

14 BY MR. KELLEHER:

15 Q. Mr. Newberry, isn't it true that the Reiss
16 Amusements PUC authority was suspended for a period of
17 about six months in 1989 for lack of insurance?

18 A. Sir, I don't really know. The Public Utility
19 Commission never told me nothing, what it was suspended
20 for. I don't have the slightest idea what it was
21 suspended for. All we know is it was suspended and it
22 cost me a bunch of money. I had to go out and cancel all
23 the trips --

24 JUDGE FOUNTAIN: I would be interested, Mr. Pepper,
25 if you would send me that document that you alluded to so

1 can straighten it out.

2 THE WITNESS: We heard rumors -- if you want to hear
3 rumors we heard, that some guy stuck it in the wrong
4 drawer and all that.

5 MR. KELLEHER: Just your own personal knowledge is
6 all we are looking for.

7 MR. PEPPER: Your Honor, if I may clarify the
8 record, the rights were subject to the management
9 transfer. We learned from the PUC attorney that was
10 handling it for Reiss Amusements that in fact those rights
11 had been suspended at one point by the PUC because Reiss
12 Amusements did not submit proof of insurance. They
13 immediately notified us. As soon as we were notified we
14 suspended all PUC operations until they were reinstated.
15 They were reinstated because of an application by Reiss
16 Amusements' PUC attorney.

17 JUDGE FOUNTAIN: How long has this transfer
18 litigation been in process?

19 MR. PEPPER: There was approximately four to six
20 months when Reiss Amusements was dealing with Secretary
21 Rich as far as straightening out the confusion as to those
22 rights being suspended. During that period of time my
23 client did not run any PUC.

24 JUDGE FOUNTAIN: Well, that's not what I am driving
25 at. What I want to know is your client filed for the

1 transfer -- the transferee filed for a transfer of the
2 rights to your client.

3 MR. PEPPER: That's correct.

4 JUDGE FOUNTAIN: Has there ever been any hearings on
5 that transfer application, if it was protested or what?

6 MR. PEPPER: No, sir, there have not been any
7 hearings on the transfer itself. There were hearings on
8 whether the transfer could actually proceed when we were
9 notified that during the pendency of the transfer
10 Secretary Rich had suspended the rights -- I'm sorry, not
11 suspended them -- had revoked the rights that were the
12 subject of the transfer to begin with. They were
13 subsequently reinstated. We had nothing to do with that.

14 As part of the reinstatement order there, however,
15 was a provision that the Applicant in this proceeding was
16 to immediately again reactivate the transfer proceeding.
17 We did so. That is currently before the PUC.

18 As I said, I believe there is a final hearing
19 scheduled for that in mid to late March. There have been
20 no protests.

21 JUDGE FOUNTAIN: Do you have a PUC number on that
22 proceeding?

23 MR. PEPPER: I don't have it with me, sir, no.

24 JUDGE FOUNTAIN: Do you have it?

25 THE WITNESS: No, sir.

1 JUDGE FOUNTAIN: You don't have it, do you?

2 MR. KELLEHER: No, sir. I wish we did.

3 MR. PEPPER: Again, sir, I will supply you with all
4 the orders and documents.

5 JUDGE FOUNTAIN: All right. I want to look at that.

6 MR. PEPPER: I understand, sir.

7 Thank you, Mr. Newberry.

8 (Witness excused.)

9 JUDGE FOUNTAIN: Let's take a five minute break and
10 I want to see you and Mr. Kelleher.

11 MR. PEPPER: All right.

12 (Recess.)

13 JUDGE FOUNTAIN: Mr. Pepper, are you ready for your
14 next witness?

15 MR. PEPPER: Yes, sir.

16 Whereupon,

17 PETER KING

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. PEPPER:

21 Q. Would you state your name for us, please?

22 A. Peter King.

23 Q. Mr. King, where do you live?

24 A. 4932 Snow Drift Road, Orefield.

25 Q. Mr. King, you are acquainted with the Applicant,

1 Mr. Newberry, in this case?

2 A. Yes.

3 Q. You are his neighbor, are you not?

4 A. I am the neighbor.

5 Q. You do not work for his company?

6 A. No, I do not.

7 Q. Have you ever worked for his company?

8 A. No.

9 Q. Are you familiar with his business operation?

10 A. Not really, no.

11 Q. You know it exists?

12 A. Yes.

13 Q. Mr. King, have there been occasions when you
14 were in need of a group and party or group or party
15 charter service?

16 A. Yes.

17 Q. Have you inquired of Mr. Newberry as to whether
18 he could perform that service for you?

19 A. I had inquired but he says that being he don't
20 have the license or the permit to take parties and groups
21 within the state that he could not could me along.

22 Q. Are you a member of certain groups that would
23 use his service?

24 A. Not really, no.

25 Q. Do you have groups of friends that would use his

1 service?

2 A. I have groups of friends and even the rest of my
3 family would like to take trips to go up to the Poconos or
4 especially in the fall to drive around or go to
5 Philadelphia to the Spectrum to see some shows, and he is
6 unable to take us along.

7 Q. Have you inquired of him for these services on
8 several occasions?

9 A. I did, but he just couldn't perform the
10 services.

11 Q. He had those rights to perform the services
12 would you use his services?

13 A. Yes, I would.

14 Q. Have you referred other people to him for those
15 services?

16 A. Well, yes. My wife's niece had asked for a
17 wedding party to use the vans for a short trip and I
18 referred them to Bob, or to D's Limousine Service, but
19 what the outcome was, I really don't know.

20 Q. Would it be fair to say that during the time
21 that you have known Mr. Newberry that you have gotten
22 frequent inquiries from friends of yours?

23 A. Yes.

24 Q. And again it would be using Mr. Newberry's
25 services for groups?

1 A. That's right.

2 Q. Have you referred them to Mr. Newberry?

3 A. Yes, we have.

4 Q. Do you believe there is a demand for group and
5 party service?

6 A. I believe so because there are a lot of people
7 who would like just, like, to have a family group go up to
8 the mountains or, like I say, to Philadelphia for the
9 Spectrum for even to the flower shows, just a little group
10 to go by themselves on their own.

11 Q. Have your friends and acquaintances inquired of
12 you as to whether Mr. Newberry could do that for their
13 family groups?

14 A. I had asked but then I referred them to Bob.

15 Q. Do you believe Mr. Newberry could meet these
16 services?

17 A. I believe it, yes.

18 MR. PEPPER: Thank you.

19 No other questions.

20 JUDGE FOUNTAIN: He is going to have his crack at
21 you now.

22 CROSS-EXAMINATION

23 BY MR. KELLEHER:

24 Q. Mr. King, how long have you been a neighbor of
25 Mr. Newberry's?

1 A. Bob, I knew only, what, about six years. But I
2 lived in the neighborhood there for ten years. I know his
3 wife for over ten years.

4 Q. Have you ever used his limousine service?

5 A. No.

6 Q. Have you ever used anyone else's limousine
7 service?

8 A. No.

9 Q. Have you ever used a group and party van or bus?

10 A. No.

11 Q. Now, you said that you made an inquiry of
12 Mr. Newberry to provide service for you or your family and
13 he said he couldn't do it because he didn't have PUC
14 rights to do that?

15 A. That's right.

16 Q. When was that?

17 A. Oh, about two years ago.

18 Q. About two years ago?

19 A. Yes.

20 Q. And where was it that the group wanted to go?

21 A. We wanted to go up to the mountains, up to the
22 Poconos. It was during the fall foliage.

23 Q. And you said you have asked Mr. Newberry several
24 times since then about the same type of trip?

25 A. Yes, and he was unable.

1 Q. He told you he couldn't do it?

2 A. That's right.

3 Q. On any of those times from that first period two
4 years ago or so to the present have you ever called any
5 other transportation company?

6 A. No, I haven't.

7 Q. Do you know that there are other companies in
8 the Lehigh Valley area that do have the permit to do
9 exactly that kind of transportation?

10 A. I know of people that have limousine service but
11 not van.

12 Q. No, I'm talking about group and party service,
13 the same thing you were asking of Mr. Newberry.

14 A. No.

15 Q. You were not aware of that?

16 A. I was aware of it but I never did ask.

17 Q. You never called any of them?

18 A. No, I never did.

19 Q. If you had called them for the service and they
20 were available to do that type of service would you have
21 used them?

22 A. I left it up to the family and to the rest of
23 the group. If they wanted to go, we would go; if not, we
24 wouldn't.

25 Q. Did you ever call ABE Limousine Service to see

1 if they could do that?

2 A. I don't know. I never asked.

3 Q. Did you ever look in the Yellow Pages to see if
4 anyone else other than Mr. Newberry did that kind of
5 thing?

6 A. No.

7 Q. You talked, then, also about the frequent
8 inquiries that were made to you about Mr. Newberry's
9 service or about bus or van service. Did you ever keep
10 any written record of who those people were?

11 A. No, I have not.

12 Q. Or when those requests were made?

13 A. Well, people that had called over the telephone
14 had called me to find out if I knew anything about the van
15 service that he would have, and I referred them to D's.

16 Q. So they were not calling you about that service
17 in general?

18 A. No.

19 Q. They were calling you about your knowledge of
20 Mr. Newberry's service?

21 A. My knowledge of the service that he had.

22 Q. In particular.

23 A. Yes.

24 Q. Did you ever tell any of those people to check
25 in the Yellow Pages for any other company that might do

1 it?

2 A. No.

3 Q. And, again, you never kept any written record of
4 who those people were or when they made those requests?

5 A. No.

6 MR. KELLEHER: I have no further questions, sir.

7 Thank you.

8 JUDGE FOUNTAIN: Do you have any redirect?

9 MR. PEPPER: No, sir.

10 JUDGE FOUNTAIN: Thank you, Mr. King.

11 (Witness excused.)

12 MR. PEPPER: Mrs. King.

13 JUDGE FOUNTAIN: Good morning.

14 Whereupon,

15 EILENE KING

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. PEPPER:

19 Q. Would you state your name for us?

20 A. Eilene King.

21 Q. Mrs. King, you are obviously the wife of the
22 gentleman that just testified?

23 A. Right.

24 Q. You heard what your husband testified to. Would
25 you agree that there is a demand for this service?

1 A. Yes, I do.

2 Q. Have you, independent of your husband, gotten
3 inquiries from friends, relatives and whatnot with respect
4 to services that Mr. Newberry can provide?

5 A. Yes.

6 Q. Do they deal with group and party service?

7 A. Yes.

8 Q. Briefly, could you describe those inquiries and
9 what they have requested of you?

10 A. They just asked for information on their
11 service. I just referred them to Bob.

12 Q. And have you ever gotten any feedback from any
13 of them with respect to whether Bob could perform those
14 services or not?

15 A. No.

16 Q. Do you believe that Mr. Newberry's company could
17 perform those services if they were licensed?

18 A. Yes, I do.

19 MR. PEPPER: Thank you.

20 No other questions.

21 CROSS-EXAMINATION

22 BY MR. KELLEHER:

23 Q. Mrs. King, once again, those questions that were
24 directed to you were specifically about Mr. Newberry's
25 service because people knew you were his neighbor?

1 A. Right.

2 Q. Did any of them indicate that they had looked
3 around in any other advertising source for any other
4 companies?

5 A. No.

6 Q. Did you ever look in the Yellow Pages or any
7 other advertising for other companies that could do that?

8 A. No.

9 Q. Do you know if there are other companies in the
10 Lehigh Valley who provide that same kind of service now?

11 A. No, I don't.

12 Q. And did you ever keep any written record of who
13 these people were?

14 A. No.

15 MR. KELLEHER: That's all I have. Thank you.

16 MR. PEPPER: No other questions, Judge.

17 JUDGE FOUNTAIN: Mrs. King, nobody expected you to
18 keep a written record of requests. That is only the
19 Applicant. You were not supposed to or you didn't have to
20 keep a written record. Okay?

21 THE WITNESS: Okay.

22 MR. KELLEHER: Thank you.

23 (Witness excused.)

24 MR. PEPPER: If you will give me a moment, Judge.

25 JUDGE FOUNTAIN: Sure.

1 (Pause.)

2 MR. PEPPER: Judge, with the representations that I
3 have made to you as far as supplying additional documents,
4 we have nothing further.

5 JUDGE FOUNTAIN: All right.

6 Mr. Kelleher?

7 MR. KELLEHER: If Your Honor please, the only
8 witness I have would be Mr. Marano, who is the principal
9 of the Protestant.

10 I have given Counsel copies of, I believe, five
11 documents that Mr. Marano will refer to during his
12 testimony. They may or may not necessarily be documents
13 offered as exhibits. He will simply testify in summary
14 form from those documents and I will have him go them
15 briefly and then he will be available for Mr. Pepper for
16 cross-examination.

17 JUDGE FOUNTAIN: All right.

18 Do you want to take the stand, Mr. Marano?

19 Whereupon,

20 LOUIS MARANO

21 having been duly sworn, testified as follows:

22 MR. PEPPER: If Your Honor please, so as to save
23 time, I will stipulate that his testimony will be
24 consistent with these documents.

25 MR. KELLEHER: Very well. In that with regard, Your

1 Honor, I will make copies of the exhibits. The only thing
2 I would like Mr. Marano to do, with your permission and
3 Counsel's, would be simply to identify them and also make
4 some comment on one of them, which is the utilization
5 figures that he has prepared based on his history of the
6 use of his equipment. That is relevant to this
7 application.

8 Other than that, I won't have them testify further
9 but he will be available for cross-examination on all of
10 the documents.

11 MR. PEPPER: That is fine, Judge.

12 DIRECT EXAMINATION

13 BY MR. KELLEHER:

14 Q. Mr. Marano, would you state your name and your
15 home address, please?

16 A. Louis Marano.

17 Q. Are you a principal in LoMa, Inc.?

18 A. Yes, I am. I am the president.

19 Q. And can you describe that corporation and its
20 officers and shareholders?

21 A. I am the sole shareholder. I am president. My
22 wife is secretary/treasurer.

23 Q. And how long has that corporation been in
24 existence and in business?

25 A. 1962.

1 Q. What business does it operate?

2 A. Limousine service and group and party in vans.

3 Q. Under what business name?

4 A. A.B.E. Limousine and Mini-Bus Service.

5 Q. Does that corporation have a PUC certificate of
6 authority for operation of group and party service?

7 A. Yes, it does. Folder No. 2.

8 Q. In what geographic area?

9 A. Lehigh and Northampton Counties to all points in
10 Pennsylvania and vice-versa. I believe that is how it
11 reads.

12 JUDGE FOUNTAIN: When you say Folder No. 2, I don't
13 think you gave your A number.

14 THE WITNESS: I don't have it off-hand.

15 BY MR. KELLEHER:

16 Q. Is it attached to the protest that was filed in
17 this matter?

18 A. Yes, it is.

19 MR. KELLEHER: I believe I have a copy.

20 JUDGE FOUNTAIN: I want to know specifically how his
21 authority conflicts with the application.

22 MR. KELLEHER: For the record, the certificate of
23 public convenience issued to this Protestant is at
24 A-00104134, Folder 1.

25 JUDGE FOUNTAIN: That is -- he said Folder 2.

1 MR. KELLEHER: Folder 2. I'm sorry. Folder 2 is
2 the group and party service.

3 MR. PEPPER: Mr. Kelleher, do you have a copy of the
4 authority granted?

5 MR. KELLEHER: Not in my file materials today, no.

6 MR. PEPPER: I don't believe it was included in the
7 protest, either.

8 MR. KELLEHER: It should have been. I believe it
9 was attached to the original.

10 JUDGE FOUNTAIN: Otherwise we don't know if you have
11 standing in the matter.

12 MR. PEPPER: Your Honor, if we could take a moment,
13 I believe that is something I informally requested of
14 Mr. Kelleher. I am not sure I have ever gotten it.

15 MR. KELLEHER: I don't know if I have a copy
16 available to me at the present time, Your Honor. With
17 your permission if I may submit it as an exhibit within
18 seven days?

19 JUDGE FOUNTAIN: All right. You can submit it as a
20 late-filed exhibit.

21 MR. KELLEHER: With the understanding that any
22 challenge to standing may be made at that time, it's not
23 being waived.

24 JUDGE FOUNTAIN: This is going to be his authority.

25 MR. PEPPER: I understand, Your Honor. I would

1 object conditionally upon him having standing to protest.

2 JUDGE FOUNTAIN: Well, I am going to overrule it and
3 I am going to give Mr. Kelleher a chance to submit that
4 document as a late-filed exhibit.

5 MR. PEPPER: I understand, Your Honor. That is why
6 I am suggesting that my objection to standing will be made
7 conditionally upon Mr. Kelleher supplying that.

8 JUDGE FOUNTAIN: Fine. You would not even have to
9 make an objection.

10 MR. PEPPER: I understand, Your Honor.

11 JUDGE FOUNTAIN: If I find that the authority does
12 not conflict with the Applicant's authority he has no
13 standing.

14 MR. PEPPER: Thank you.

15 MR. KELLEHER: I understand and I agree that is the
16 case as a prima facie matter, Your Honor.

17 BY MR. KELLEHER:

18 Q. Mr. Marano, I have give you copies of five
19 documents that I have also shared with Applicant's
20 Counsel. I believe they are all dated February 15, 1990,
21 is that correct?

22 (Witness perusing documents.)

23 A. Correct.

24 Q. Would you describe for the record what each of
25 those is, please?

1 A. I have a common carrier right, group and party
2 utilization information form or letter. I have
3 advertising done by A.B.E. Limo. I have a brief history
4 of the company or corporation. I have a list of vehicles,
5 which includes five limos and six vans, and the vans are
6 the ones in question today. And I have a list of drivers.

7 Q. Taking each of those separately now, the history
8 of A.B.E. Limo and Bus Service, is that an accurate
9 history of the business and its current operating
10 procedures?

11 (Witness perusing document.)

12 A. Yes, it is.

13 Q. The list of equipment, is that an accurate
14 current list?

15 A. Yes, it is.

16 Q. And, again, the Plymouth and Dodge equipment are
17 those that are related to your authority under the present
18 service?

19 A. That's correct.

20 Q. The list of drivers, is that an accurate and
21 current list of drivers?

22 A. Yes, it is.

23 Q. The advertising copy, which is the multi-paged
24 document, is that an accurate copy of the advertising done
25 during the year 1989.

1 (Witness perusing document.)

2 A. Yes, it is.

3 Q. And is each of those pages a separate copy of
4 various publications in which the business was advertised?

5 A. Correct.

6 Q. With respect to those advertising copies does
7 the advertisement relating to A.B.E. Chauffeured Limousine
8 Service identify bus or van availability as well?

9 A. On the big ad that we have in the Yellow Pages
10 it says A.B.E. Limo and Mini-Bus Service and also it says
11 van service. And it says we have PUC and ICC authority.

12 Then on the Donnelley Directory, right over the
13 telephone number, it says we also have vans and it gives
14 our PUC and ICC numbers.

15 JUDGE FOUNTAIN: Are you referring to an ad that you
16 have in the Yellow Pages?

17 THE WITNESS: Yes, sir.

18 JUDGE FOUNTAIN: Don't you think it speaks for
19 itself?

20 MR. KELLEHER: It does, Your Honor. My question was
21 only to identify what portions of those identify van
22 service.

23 JUDGE FOUNTAIN: All right.

24 BY MR. KELLEHER:

25 Q. Mr. Marano, the last document you identified as

1 an utilization summary. Can you just very briefly
2 describe what that information is?

3 A. We took a survey from our logs from 9/89 to
4 2/15/90, which there were 168 days. Prior to that -- I'm
5 sorry -- we have six vans and if you times 168 days by
6 six vans that would give us a total of 1,008 van days
7 available.

8 In the above days, intrastate, we did an average of
9 .08 van trips for available vans. And this above clearly
10 shows no need for another authority for groups and party
11 in the existing boundaries in which A.B.E. Limo has
12 authority. My vans do not go out intrastate once a day.
13 And I get very, very few calls for the vans to go out and
14 when they hear of a chauffeured van and the price of a
15 chauffeured van, the Lehigh Valley does not really want to
16 pay for them. The most use is utilized by corporations.

17 MR. KELLEHER: I have no other questions on direct,
18 Your Honor.

19 JUDGE FOUNTAIN: Any cross, Mr. Pepper?

20 MR. PEPPER: Yes, sir

21 CROSS-EXAMINATION

22 BY MR. PEPPER: .

23 Q. Mr. Marano, the calculations that you have made
24 which resulted in a average of .08, that deals with just
25 the calls that you have received, correct?

1 A. That deals with actual trips done.

2 Q. The actual trips that you have performed?

3 A. Right.

4 Q. That in no way reflects anything that anyone
5 else may have done?

6 A. I have no knowledge as to what anybody else
7 would have done.

8 Q. That is correct. You would have no knowledge?

9 A. Right.

10 Q. You also have no knowledge as to what calls any
11 other operator may have received?

12 A. That's correct.

13 Q. Or any knowledge as to any other trips any other
14 operator may have done?

15 A. That's correct.

16 Q. This is just your trips?

17 A. Right.

18 Q. Sir, have you received any citations from the
19 PUC?

20 JUDGE FOUNTAIN: Mr. Pepper, he is not applying for
21 any rights.

22 MR. PEPPER: I understand that, Your Honor.

23 JUDGE FOUNTAIN: I don't think that is relevant to
24 this proceeding.

25 MR. KELLEHER: Please note my objection for the

1 record.

2 MR. PEPPER: I would submit that it in fact is
3 relevant to the proceeding.

4 JUDGE FOUNTAIN: I am going to overrule you,
5 Mr. Pepper.

6 BY MR. PEPPER:

7 Q. Mr. Marano, I note that you list 11 vehicles, is
8 that correct?

9 A. Correct.

10 Q. All of these are currently registered?

11 A. Correct.

12 Q. All of these are currently licensed?

13 A. Correct.

14 Q. Are they all currently insured?

15 A. For \$2 million.

16 Q. That insurance coverage covers all of these
17 vehicles?

18 A. Every one of them.

19 Q. And I also note that you have 18 drivers listed?

20 A. Including my son and myself, who drive in
21 emergencies.

22 Q. Yes, I understand that.

23 Do all 18 operators currently work for you?

24 A. Yes, they do.

25 Q. They are all currently in your employ?

1 A. That's right.

2 Q. Would it be fair to say that all of these people
3 have driven within the last 30 days for you?

4 (Witness perusing document.)

5 A. Everyone except my son, myself and Bill Woodell.

6 Q. You do a chauffeuring service for the Fuller
7 Company, do you not?

8 A. Correct.

9 Q. And that is where most of this work goes?

10 A. No, it doesn't. All my drivers are required to
11 do every part of our service.

12 MR. PEPPER: Thank you.

13 No other questions.

14 JUDGE FOUNTAIN: Thank you.

15 MR. KELLEHER: No redirect, Your Honor.

16 JUDGE FOUNTAIN: Thank you, Mr. Marano.

17 (Witness excused.)

18 MR. KELLEHER: Your Honor, we have no other
19 witnesses or testimony, and I would move the admission of
20 the exhibits we have identified and we would rest.

21 JUDGE FOUNTAIN: Any objection?

22 MR. PEPPER: No, sir.

23 JUDGE FOUNTAIN: They will be admitted.

24 MR. KELLEHER: Protestant's Exhibit No. 1 would be
25 the five page document comprising the violations.

1 Protestant's Exhibit No. 2 would be the two page
2 document of advertising by the Applicant.

3 Protestant's Exhibits Nos. 3, 4, 5, 6 and 7 would be
4 the documents Mr. Marano referred to during his testimony.

5 (Whereupon, the documents were marked
6 as Protestant's Exhibits Nos. 1 - 7
7 for identification and were
8 received in evidence.)

9 MR. KELLEHER: Nothing further, sir.

10 JUDGE FOUNTAIN: Anything further?

11 MR. PEPPER: No, sir.

12 JUDGE FOUNTAIN: All right. Thank you gentlemen.
13 You will be hearing from me in due course.

14 MR. PEPPER: Your Honor, we will submit those
15 additional documents thank you.

16 MR. KELLEHER: As will we.

17 JUDGE FOUNTAIN: Will you submit that late-filed
18 exhibit with his authority I want you to point out for me
19 where it conflicts with the Applicant's.

20 MR. KELLEHER: Yes, sir.

21 JUDGE FOUNTAIN: Thank you, ladies and gentlemen,
22 for coming.

23 MR. KELLEHER: Good day, Your Honor.

24 (Whereupon, at 11:58 a.m., the hearing was
25 concluded.)

C E R T I F I C A T E

I hereby certify, as the stenographic reporter,
that the foregoing proceedings were taken stenographically
by me and thereafter reduced to typewriting by me or under
my direction; and that this transcript is a true and
accurate record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

By: *Robert J. Stonaker*

Robert J. Stonaker

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