

ORIGINAL

January 25, 1989

"EXCEPTIONS OF ROLAND T. BARRY - PATRICK A. KISSEL SR."

A108005

(1) Mr. Barry was operating a moving company T/D/B/A "MOVING ARE YOU" and "MOVING -REASONABLE MOVING"

(2) The Public Utilities Commission Informed Mr. Barry in March or April of 1987, that he could not operate the trucks unless he had a P.U.C. certificate.

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(3) Mr. Barry proceeded with the same ad "MOVING ARE YOU?" advertising moving through the Pennysaver until the protestant introduced the ruling of the P.U.C. 52 Pa. Code ch.41 to the Pennysaver.

SECRETARY'S OFFICE
Public Utility Commission

(4) The Pennysaver finally decided to co-operate with the P.U.C. ruling and started to obtain P.U.C. numbers.

(5) Mr. Barry adopted the " TRUCK RENTAL " at the end of the ad to get around the P.U.C. law of advertising moving without a P.U.C. number.

(6) Enclosed is a copy of his business card advertising ABC EZ MOVING CO. This card has no mention of truck rental.

(7) No reasonable person would think this ad is for truck rental. This is nothing more than a smoke screen.

(8) The March 28, 1988 ad never inclines that he will rent a truck, he specifically advertises a better deal move.

(9) Mr. Barry's company was included on a formal and informal complaint to Mr. Jerry Rich on March 21, 1988 regarding his acts as a illegal mover. This formal and informal complaint has never been acted on by the P.U.C.

(10) Mr. Barry worked for Hamburg Brothers for 32 years serving several capacities in Hamburg Bros. as a wholesale distributor. He should have a full understanding of the P.U.C. common carrier laws. But he does not. He lacks a propensity to operate legally.

DOCUMENT
FOLDER

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(11) Mr. Barry claims that Mr. Fink will "ADVISE" him and guide him on the different laws of the P.U.C. and tariffs ect. There is no guarantee that Mr. Fink has more knowledge than Mr. Barry or that he will he will even co-operate with Mr. Barry.

(12) We feel that the demeanor of the judge showed showed special consideration towards Mr. Barry because he was not represented by legal counsel. I Understand that the administrative law judge was new to transportation. I feel that this judgement was based on personal feelings instead of law.

Patrick A. Kissel Sr.

Patrick A. Kissel Sr.

Kissel Moving and Storage

Home Apartment Office

ABC • EZ Moving Co.

Loading • Unloading • Packing • Cartons

Very Reasonable

Dependable • Insured

For a Better Deal . . . Call Barry

734-5478 or 766-3026

COUPON

SAVE \$10,000 on your downpayment with this ad

BUY HERE PAY HERE

1 WEEK ONLY

Expires 9.5.88

COUPON

SAVE Where the Smart Buys Are!

MARTIN 821-4267

REDENBACH AUTO SALES

1819 BABCOCK BLVD., MILLVALE

IF YOU HAVE BAD CREDIT, SLOW CREDIT, OR NO CREDIT, IT'S NO PROBLEM

COUPON

JUST A FEW SMART BUYS

- 79 Chevy Van
- 79 Buick Regal
- 78 Mustang - T-Tops
- 80 Lesabre - SDN
- 77 Diplomat CPE
- 80 Rabbit Diesel
- 77 Omega CPE
- 78 Mitsubishi WGN
- 80 Subaru SDN
- 81 Monte Carlo

COUPON



TENT CAMPER - SLEEPS 6 - good times cheap! \$700/best offer - 935-8867

WORD PROCESSOR - HIGHEST rates - local area - experience or schooling - no contract - no fee - Pancoast Temporaries 261-4820

WET BASEMENT! COMPLETE waterproofing and foundation resotation - reasonable prices, guaranteed work - insured - free estimates - call Century Waterproofing Inc. - 468-5675

BOAT AND TRAILER - \$200 - boat fiberglass needs work - trailer good shape - 364-3430

RESIDENTIAL CONSTRUCTION SERVICES - Interior/exterior - building and remodeling - decks, kitchens, bathrooms, gamerooms, walls, sidewalks - call 734-3104

1982 OLDS TORANADO, loaded, moon roof, FWD, garage kept, first \$5,000 - 487-8289

1979 TOYOTA CELICA - 5 speed, good condition, sunroof, winter studs \$600, or best offer 935-0933

WANTED TV'S OR VCR's working or not will pick-up free - please call 368-1111 - would appreciate them

FOR RENT-ROSS Township - 3 bedroom - 1-1/2 bath - garage - gameroom - \$515 - 487-1878

IVORY/MC KNIGHT - 1 bedroom, second floor, \$295 includes utilities - 1 bedroom first floor - \$225 plus utilities - kitchens equipped - 931-1899

INJURED BY UNINSURED - hit/run driver? Passengers/drivers. Scars - neck and back - fractures. Don't lose your right to collect money damages. Free consultation. Call Attorney Harry Stump 281-5325

FOR SALE - 1982 Honda Accord LX - 5-speed - air condition-power steering/brakes - AM/FM cassette - sunroof - good condition - must sell - \$3,000 - 372-3089

EMSWORTH 1/2 DUPLEX - 2 bedrooms - livingroom - diningroom - kitchen - bath - garage - wall/wall - appliances - \$350 plus - 364-6375

BRIGHTON HEIGHTS - BRICK double - excellent condition - nice street - close to bus, schools, churches - \$35,800 - evenings 766-2176

K/C PAINTING - INTERIOR and exterior - residential and commercial - free estimates - Keith 935-6599

1982 DATSUN - SL210 - hatchback, 5 speed, good condition - \$2,600 - 486-9104

CONTEMPORARY DININGROOM - 7 piece - like new - china cupboard - server - \$1,200 - after 5 PM - 761-7228

MOVING - REASONABLE MOVING - call 734-5478 or for a better deal - call 766-3026 - Truck Rental

BABYSITTER WANTED - PART-TIME days in my Ben/Avon home - 761-4538

WASHER - DRYER REPAIRS - quick service - reasonable rates - evenings or Saturdays 231-8738

CHIMNEY SWEEPING OR gutter cleaning - \$35 - capping - power vacuumed - wire brushed - 265-2039 - 931-4969

FABRICS ETC. RT. 19 Wexford - upholstery and drapery fabrics - first quality factory closeouts \$1.99 yard and up - custom foam - 935-6161

PAINTING - INTERIOR - EXTERIOR - residential - commercial, we also paint aluminum siding. Insured - free estimate - Brandon Shults 487-7127

MOVING!! MOVING!! MOVING!! Dependable, licensed, insured, quality moving service - Local PUC-107168 - Long Distance ICC-172140 - free estimates - 421-5040 861-3408 - 731-8737

STONE WALL REPAIR - NO WALL TO TALL OR TOO SMALL - FREE ESTIMATE CALL RAY 734-4615

CHRIS' FOODS FREE DELIVERY (MIN. \$4.50)

Serving the Widest Variety of Prepared Foods in Brighton Heights

761-7344

NEW HOURS
 Mon.-Thurs. 5 PM-11 PM
 Fri. 5 PM-12 Mid.
 Sat. 4 PM-12 Mid. 1312 Benton Ave., Brighton Heights

COUPON

2 FOOTER ITALIAN HOAGIE

Only **\$5.85** No Limit Save - \$1.10

COUPON EXPIRES 9-15-88

Please Mention Coupon When Ordering

COUPON

9" PIZZA \$4.50

WITH 1 TOPPING & LARGE POP.

COUPON EXPIRES 9-15-88

Please Mention Coupon When Ordering

COUPON

16 cut SICILIAN PIZZA

With 1 Topping & 1 Liter of Pop

Only **\$8.49**

COUPON EXPIRES 9-15-88

COUPON

8 PROVOLONE STICKS

\$3.50

COUPON EXPIRES 9-15-88

COUPON

15 WING DINGS

Hot or regular

only **\$4.99**

COUPON EXPIRES 9-15-88

COUPON

COMBO PLATTER

Breaded Mushrooms, Breaded Zucchini, Onion Rings

only **\$3.25**

COUPON EXPIRES 9-15-88

SEARS WAREHOUSE FURNITURE

CLEARANCE SALE

40% TO 70% OFF

WHERE: SEARS ALLEGHENY CENTER

• FLOOR MODELS • DISCONTINUED ITEMS
• ONE-OF-A-KIND • DAMAGED GOODS

QUANTITIES ARE LIMITED



PART-TIME HELP WANTED - work through home - customer service - earn up to \$100-\$500 per week - call 776-1311

TREASURE LAKE DUBOIS membership Gallatinburg, Tennessee - Timeshare Five Star Resorts - Price negotiable - 348-6792 after 6PM

COMPLETE JUNK CARS towed away Free - 821-1940

WANTED 12 OVERWEIGHT people to lift weight and earn \$500 to \$1,000 a mo 366-7085

TRUSSES 24' - MUST sell - asking \$2,443-6651 after 4 PM

BRIGHTON HEIGHTS - SPACIOUS 2 bedroom apartment on busline - wall/wall equipped kitchen - \$315 plus utilities 761-8195

3935 PERRYVILLE AVE.

231-5811

VIDEO HITS

MOVIES

\$1.98 per nite

CHILDREN'S MOVIES

2/\$1.98

LIFETIME MEMBERSHIP

99¢

BUY DIRECT FROM THE NATION'S LARGEST
RETAIL MANUFACTURER

BLINDS

SERVING
ALL OF
ALLEGHENY
COUNTY

FREE
VALANCES
ON VERTICALS
AND MINI
BLINDS

- Verticals • Draperies
- Pleated Shades • Woven Woods
- Mini Blinds • Balloon Shades



QUALITY
WINDOW DESIGNS™

Hours M-F 10-7 SAT. 10-4



1006 WEST VIEW PARK DR.
PITTSBURGH, PA 15229

CALL NOW

For Your **FREE** Shop
At Home Service

931-9454

Evening Appointments Available

TOLL FREE 1-800-451-2366

CHEVY CUSTOM 10 pickup - 1971 - inspected - body - needs work - reliable - \$750 or best offer - 443-2514

WARDROBE WALNUT FINISH \$97. New Factory Direct - Freight Liquidators - See our display advertisement for nearest locations

TWO BOYS 3 piece suits size 6 \$10; size 16 \$20; aqua prom dress size 7/8 \$15; 935-4514

BLAZCZAK HOME HEAT - HEATING OIL 200 GALLON OR MORE 83¢ 100, 73¢ KEROSENE 73¢, 83¢ C.O.D. 265-3841

WINDOW CLEANING - GUTTER cleaning - wall washing - siding cleaning - very reasonable rates - 487-4593 - 784-1119

PLASTERING - PATCH WORK and drywall done - reasonable rates - call 283-0413 or 285-7851

DISMANTLING 1970 ROAD Runner - 1/4 panels, air grabber hood, parts or whole - 381-2797 after 6 PM

JUNK YARD NOW open - mostly late models - paying cash for 78/newer cars - behind Hubcap City, Rt. 19 (Wexford) - 935-2784 - 9-5 Monday-Saturday

COMPUTERIZED, PERSONALIZED INVITATIONS - thank you cards - banners, signs, all occasions - call 898-3238

GUARANTEED TO FIX your color TV for under \$50 - must be 5 years or older - housecalls \$9.95 - Senior Citizens/ unemployed \$5 - now doing VCR's - Beta and VHS - John's TV Service - Phone answers 24 hours - at home 8 AM - 11 AM - 366-1111

1988 ISUZU - TROPPER - loaded - company owned - executive driver - must sell - 12,000 miles - 761-8180 - 452-1090

EARLY AMERICAN DININGROOM table, 6 chairs, lighted hutch - 387-9188 cash only

MOBILE HOME - MUST sell - livingroom, diningroom, kitchen, two bedrooms - possible owner financing 443-0131

LOWREY ORGAN, PICTURES, livingroom chairs, end tables, miscellaneous - 387-9188 cash only

JUNK REMOVAL - HEAVY light hauling - we clean up garages, basements, yard and remodeling debris - land clearing - also demolition - call Harry Jenkins 487-7811

EASTER BUNNIES - HOLLAND, Lops - Nests - each - \$10 - \$15 - call 625-6644

MOVING? ARE YOU moving? For a better deal - call 734-5478 or 766-3026

USED AUTOMATIC washers - most brands accepted - 367-4426

1979 PLYMOUTH VOLARE 4 door - January inspection - good condition - reliable - \$1,200 - 766-2593

1979 DATSUN 210 - inspected - runs well - good tires - \$400/best offer - library table - crib - large wool carpet - 625-9491

TWO BEDROOM MOBILE - new appliances, shed, covered front porch, new 12x18 deck, \$8,000 or best offer 586-9779

UNPAINTED FURNITURE: 2 desks - 2 chairs - 2 dressers - nightstand - \$50 - 935-4743

CLEAN FILL WANTED - 486-5737

1975 COUGAR - NEW inspection - runs good - good body - moon roof - cruise - \$950 - 761-9378

HALLMARK "HERE COMES Santa" 1979 - 1983 - 1984 - 1985 - nice organ \$175 - 487-7594

VERY COMFORTABLE RECLINER - good condition - slate blue floral \$75 - 776-1073

FURNITURE AND KITCHEN cabinet refinishing - free estimates - pickup and delivery - Edward's refinishing service 935-1350 - 935-4723

BEDROOM DRESSER SET - 8 drawer - 6 drawer - dark wood - contemporary \$200 - 898-1482

WHEELCHAIR LIFT - BRAUN Hydraulic for van - 869-8307

REMODELING? CALL THE Company that can do it all! - In Business since 1959 - Lance Homes - 538-3403

COUGAR - 1984 IMMACULATE condition - fully equipped - low mileage \$8,100 - evenings - 366-2055 - day 234-4580

NICKELODEON PLAYER PIANO computerized display read-out - manual, tapes or quarters - 387-4133

MUST SELL - KIMBALL upright piano - year old - \$1,800 or best offer - 487-8141 after 5 PM

FLORIDA!! MOVING!! FLORIDA!! Moving truck to Florida weekly - take or bring back any furniture - local PUC-A00107168 - Long Distance ICC-MC172140 - licensed - insured - free estimates - 469-9700 - 375-5000 - 621-6000

1973 CHEVY MALIBU runs good - need frame work - good parts car - will deal 898-1482

MOBILE HOME 1987, 14x70, 3 bedroom, 2 bath, washer, dryer refrigerator, stove. Located in new section of park. South Butler County. Are you looking to purchase or sell a mobile home? Call Pre-Owned Mobile Home Sales 898-2681, Resident

NORTHLAND LIBRARY'S SEMI-ANNUAL used book sale, April 9-10. Hours are from 10AM-8PM on April 9th and 1-4PM on April 10th. New feature is a presale from 9-10AM on April 9th, with library card for admission, and limit 6 books per customer

SOFA END TABLES ATTACHED - VELVET ORIGINAL \$900 SELL FOR \$300 - EXCELLENT CONDITION - 2 TWIN BEDS KING LENGTH \$50 EACH - 935-5306

CONCRETE DRIVEWAYS, SIDEWALKS, porches, patios, railroad tie walls, block/brick work, backhoe work, wolmanized decks, Nickel Construction 822-7464

COMPLETE BATH REMODELING - our specialty - gas water lines replaced - open sewers - install A.O. Smith water heaters - Complete plumbing service - W.E. Dietrich - 781-7986

LOCAL, FULL SERVICE, established advertising agency looking for working investors - creative strengths must be: ad layouts, brochures, print, TV, radio, public relations, etc. - If you have that burning desire to own part of your own company, this is it - serious inquiries only - P.O. Box 9548 - Pittsburgh, PA 15223

1977 MUSTANG - 302 - \$800 or best offer - 384-5646 after 5 PM

ATTENTION! MOVER/HAULER
THE PUBLIC UTILITY COMMISSION - BUREAU OF TRANSPORTATION HAS Notified Us That Certificate Numbers Must Now Appear In Ads CALL THE PENNSAVER FOR MORE INFORMATION

1981 VW RABBIT good condition, \$1,000 487-8834 - after 5:30 weekdays

STARCRAFT - TENT TRAILER, sleeps six, furnace, ice box, sink, stove \$800, 586-9779

LAWN MOWERS - PUSH - REBUILT \$75 - 6 to choose from - Ron 443-7400 - 443-5092

MCCANDLESS - 2 STORY 3 bedrooms - 1-1/2 baths - first floor familyroom - fireplace - large level lot - air - \$87,900 - 368-5989

A STORAGE SHED will clean up your cluttered garage or basement. B.P. Carpentry Works - Brad 367-3280

YAMAHA 1982 650 Seca turbo - 8,000 miles - Immaculate \$1800/best offer 368-6717

TOPSOIL - TOPSOIL - TOPSOIL HIGH QUALITY SHREDDED TOPSOIL - \$15 PER CUBIC YARD DELIVERED. SHREDDED BARK - \$15/YARD. MUSHROOM MANURE \$13/YARD. FILL DIRT AVAILABLE. 8 YARD MINIMUM WILL SPLIT BETWEEN NEIGHBORS AT NO ADDITIONAL CHARGE. 443-8798 767-4367 443-4547

1973 MOBILE HOME 12'x85' - 2 bedroom - must relocate - best offer over \$5,000 443-4228

SOFA - LOVESEAT - \$387; New Factory Direct - Freight Liquidators - See our display advertisement for nearest locations

CHEVY NOVA 1978 - 6 cylinder - needs inspected - \$500 - Ron - 443-7400 - 443-5092

CONCRETE - DRIVEWAYS - SIDEWALKS - patios - stone walls and brick work - over 40 years experience - call Tony 821-1800 or 782-5100

INCOME TAX PREPARATION done by a CPA in your home or office - Call Tom Crane 366-4421 or 486-5974

WALLPAPERING - DISCOUNT SALES and professional installation by Frank Arch - call today for your free appointment with our interior decorator - 741-7440 Arch Interiors

FAST LASTING RELIEF for whip lash without drugs or surgery - call Dr. Markovich - Cranberry Twp. - 776-8787

EARLY AMERICAN SOFA - chair - golds and browns - \$125 - after 6 - 898-3084

1986 FORD TEMPO G.L. - 4 door - loaded with extras, 8,000 miles - like new - asking \$7000 - 935-6336

SHAKLEE PRODUCTS - NATURAL vitamins, natural cosmetics, environmentally-safe cleaners. Free next day delivery 745-5800

BICYCLE 23" (59CM) Peugeot racing 12 speed \$225 - Centurion Elite R519" (48cm) touring bicycle \$225 - 487-8530

WHEAT PENNIES: 10/\$1.00; 22/\$2.00; E.M., P.O. BOX 67, Bairdford PA 15006

DININGROOM ETHAN ALLEN antique pine pedestal table, 6 chair, buffet and hutch, drysink - \$1,700 - 741-0867 after 5:30

FISHERMEN LAKE ONTARIO - Lake Erie fishing charters - good fishing starts in April - fish guaranteed! Free Brochures 834-8369

NATIONAL PARK TRIP July 1-27 - N.W.U.S. all expenses paid, attractive, personable, fit believers only - call Dick - 795-3623

THE PENNSAVER WANTS YOUR READER AD TO BE ACCURATE AND CORRECT. PLEASE REPORT ANY ERRORS IMMEDIATELY. WE WILL BE RESPONSIBLE ONLY FOR ONE INCORRECT INSERTION. PENNSAVER WILL NOT BE RESPONSIBLE FOR INCORRECT ADS RUN A SECOND OR SUBSEQUENT WEEKS

DRIVEWAY STONE, ANY limestone, slag, chips, 5 ton \$90, 4 ton \$77, 3 ton \$63, delivered, spread - river gravel for rockbeds priced as above 366-7081

DISC JOCKEY - WEDDINGS, reunions, dances, all occasions - Music from 1940's - 1980's 387-7002

AEROBICS SPRING INTO shape locations in Mars - Cranberry - Valencia - Gibsonsia and LaRoche College - call 625-1471



WARM WEATHER ALERT

Plan Now To Spend
Those Warm Days On
Your Now Custom
Built Deck

CALL TODAY AND GET
Started on Your Way Enjoying
SPRING & SUMMER

WEIGAND CONTRACTING 898-3552

ORIGINAL

PILLAR AND MULROY, P.C.

ATTORNEYS-AT-LAW

SUITE 700

312 BOULEVARD OF THE ALLIES

PITTSBURGH, PA 15222

TELEPHONE (412) 471-3300

JOHN A. PILLAR
THOMAS M. MULROY

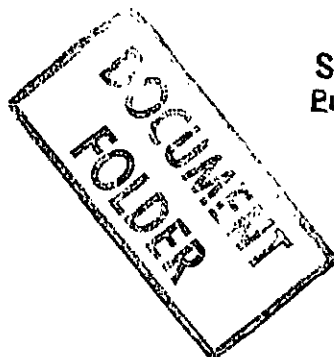
February 3, 1989

Re: Roland T. Barry, t/d/b/a
ABC-EZ Moving Co.
Docket No. A-108005
File No. 1118

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SECRETARYS OFFICE
Public Utility Commission



Hon. Jerry Rich, Secretary
Pennsylvania Public Utility
Commission
P. O. Box 3265
Harrisburg, PA 17120

Dear Mr. Rich:

Enclosed for filing are the original and nine copies of a Reply to Exceptions on behalf of Roland T. Barry, t/d/b/a ABC-EZ Moving Co. in connection with the above proceeding. A copy has been served on the Administrative Law Judge, the protestant, and David M. O'Boyle, Esq.

Please acknowledge receipt of the enclosures on the duplicate of this letter of transmittal and return it in the stamped, self-addressed envelope provided.

Very truly yours,

John A. Pillar
JOHN A. PILLAR

SW

Enclosures

cc: Hon. Richard Herskovitz
Patrick Kissel, Sr.
Roland T. Barry
David M. O'Boyle, Esq.

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FEB 6 1989

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION SECRETARYS OFFICE
Public Utility Commission

Application of
ROLAND T. BARRY, t/d/b/a
ABC-EZ MOVING CO.

Docket No. A-108005

REPLY TO EXCEPTIONS

DOCUMENT
FOLDER

DOCKETED
FEB 08 1989

JOHN A. PILLAR, ESQ.
Attorney for
ROLAND T. BARRY, t/d/b/a
ABC-EZ MOVING CO.,
Applicant

PILLAR AND MULROY, P.C.
Suite 700
312 Boulevard of the Allies
Pittsburgh, PA 15222

Due Date: February 12, 1989

I. INTRODUCTORY STATEMENT

By Initial Decision dated January 6, 1989, and served on January 18, 1989, Administrative Law Judge Richard Herskovitz granted the application of Roland T. Barry, t/d/b/a ABC-EZ Moving Co. to purchase the operating rights of Robert N. Fink, t/d/b/a Frank J. Irvin, at Docket No. A-92431. As indicated in the Initial Decision, the application was protested by Patrick Kissel, Sr., and a hearing was held on September 7, 1988, in Pittsburgh. The applicant filed a brief in support of the approval of the transaction. Patrick Kissel, Sr. filed no brief.

In his Initial Decision, Administrative Law Judge Herskovitz considered all of the evidence and made detailed findings of fact and conclusions of law. He concluded that applicant possesses the necessary technical and financial ability to provide the proposed service and that the applicant has the propensity to operate safely and legally. He also concluded that the operating rights sought to be acquired by the applicant have not been abandoned by the transferor.

The protestant, Patrick Kissel, Sr. has now filed a 1-1/2 page document entitled "Exceptions of Roland T. Barry - Patrick A. Kissel, Sr." It is clear that the exceptions filed by Kissel were not the exceptions of the applicant but, rather, of the protestant Kissel. Applicant now files its reply to the exceptions.

II. LEGAL ARGUMENT

1. THE EXCEPTIONS SHOULD BE STRICKEN AND/OR DENIED ON PROCEDURAL GROUNDS.

The exceptions filed by protestant consist of 12 numbered statements which are not exceptions as required by 52 Pa. Code § 5.533. The numbered statements consist of the protestant's personal views which are not supported by the evidence of record. No record references are contained in the "Exceptions" nor has any effort been made to relate protestant's statements to the evidence of record or the Initial Decision. Section 5.533 provides, in pertinent part, as follows:

(c) Exceptions shall be stated in specific, numbered paragraphs. Supporting reasons for the exceptions shall follow the specific exceptions.

(d) Exceptions shall be concise, the exceptions and supporting reasons shall be limited to 40 pages in length. Statements of reasons supporting exceptions shall, insofar as practicable, incorporate by reference, relevant passages in previously filed briefs...

Protestant's "Exceptions" fail to comply with Section 5.533 and, therefore, the Exceptions should be denied on the grounds that protestant has failed to comply with the Commission's Rules of Practice.

2. EVEN ASSUMING THE EXCEPTIONS ARE ACCEPTABLE AS TO FORM, THEY SHOULD BE DENIED AS THEY ARE LACKING IN MERIT.

Applicant submits that protestant's pleading is an attempt to further delay the approval of this transaction.

Protestant filed no brief with the Administrative Law Judge and, therefore, made no effort to argue any factual or legal basis for denial of this application before the initial decision was rendered. Moreover, the points listed in the "Exceptions" are purely protestant's speculative and purely personal views of the facts. The Administrative Law Judge carefully considered applicant's background before concluding that the applicant is fit, both financially and otherwise, to be granted operating rights by this Commission. The two newspaper ads attached to protestant's "Exceptions" were reviewed by the Administrative Law Judge as was applicant's past conduct. In this regard, Judge Herskovitz held as follows (Initial Decision, pp. 16-17):

It is clear from the evidence above that applicant has provided unauthorized motor carrier service on several occasions in the past. He readily admits he has done so. It is also equally clear that applicant's transgressions of the law were not willful or intentional, but resulted from a bona fide misunderstanding of the law. Applicant is a neophyte in the motor carrier business and is not yet aware of what he can and cannot do. On each occasion when he was informed of his illegal activity, he ceased that activity. Additionally, I am persuaded by his honesty and sincerity in this matter to operate a household goods transportation service lawfully. I therefore conclude that the evidence does not demonstrate that applicant lacks a propensity to operate legally.

Protestant does not raise any question as to the issue of abandonment of the operating rights and devotes his entire "pleading" to the question of applicant's fitness. Protest-

ant's statement regarding the "demeanor" of Judge Herskovitz is totally unwarranted. Judge Herskovitz applied the law to the facts of this case and properly concluded that the application should be granted.

3. MOTION TO STRIKE THE ITEM REFERRED TO IN PARAGRAPH 6 OF "EXCEPTIONS".

Applicant respectfully moves to strike the item referred to in paragraph 6 of protestant's "Exceptions" since the business card attached is not evidence of record and may not now be tendered as "evidence" by the protestant. In any event, even if the business card were in evidence, it clearly refers to incidental services such as "loading, unloading, packing and cartons" and does not refer to any transportation service per se.

III. CONCLUSION

On the basis of the foregoing reply, applicant respectfully requests that the protestant's "Exceptions" be stricken and/or denied, and that the Initial Decision of the Administrative Law Judge be upheld.

Respectfully submitted,

PILLAR AND MULROY, P.C.

By: 

JOHN A. PILLAR
Attorney for
ROLAND T. BARRY, t/d/b/a
ABC-EZ MOVING CO.,
Applicant

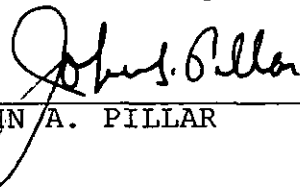
CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Reply to Exceptions on the following parties, by first-class mail, postage prepaid, this 3rd day of February, 1989:

Patrick Kissel, Sr.
3741 Colby Street
Pittsburgh, PA 15214

David M. O'Boyle, Esq.
1450 Two Chatham Center
Pittsburgh, PA 15219

Hon. Richard Herskovitz
Administrative Law Judge
Pennsylvania Public
Utility Commission
1103 Pittsburgh State
Office Building
300 Liberty Avenue
Pittsburgh, PA 15222



JOHN A. PILLAR

PILLAR AND MULROY, P.C.
Suite 700
312 Boulevard of the Allies
Pittsburgh, PA 15222

LAW OFFICES

WICK, STREIFF, MEYER, METZ & O'BOYLE

1450 TWO CHATHAM CENTER

PITTSBURGH, PA 15219-3427

(412) 765-1600

ORIGINAL

ARTHUR J. DISKIN
SENIOR COUNSEL

HENRY M. WICK, JR.
CHARLES J. STREIFF
CARL F. MEYER
LeROY L. METZ, II
DAVID M. O'BOYLE
VINCENT P. SZELIGO
LUCILLE N. WICK
PATRICIA LIPTAK-McGRAIL
M. BRADLEY DEAN
THOMAS M. CASTELLO

TELECOPIER
(412) 261-3783

February 7, 1989

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FEB 9 1989

SECRETARY'S OFFICE
Public Utility Commission

Re: Kissel Moving & Storage Co. --
Roland T. Barry, t/d/b/a
ABC-EZ Moving Co.
Docket No. A-108005
Our File 3793.501

Mr. Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17120

Dear Mr. Rich:

I entered an appearance on behalf of Protestant Patrick Kissel, Sr. and filed a protest on his behalf in opposition to the above transfer application. Mr. Kissel has elected to file Exceptions to the Initial Decision of Administrative Law Judge Richard S. Herskovitz. Mr. Kissel has informed me that he intends to represent himself in handling all further matters in this case. Accordingly, I hereby request that my appearance on behalf of Protestant Patrick Kissel, Sr. be withdrawn.

I would request that I remain a party of record for purposes of receiving all future orders and notices issued by the Commission in this case.

Very truly yours,

WICK, STREIFF, MEYER,
METZ & O'BOYLE

David M. O'Boyle

David M. O'Boyle

DOCKETED

FEB 15 1989

vr

cc: Hon. Richard S. Herskovitz
John A. Pillar, Esq.
Mr. Patrick Kissel, Sr.

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