

LAW OFFICES OF
BEDNARZ & PENDOLPHI
SUITE 405 BICENTENNIAL BUILDING
15 PUBLIC SQUARE
WILKES-BARRE, PENNSYLVANIA 18701

RECEIVED
JUL 09 1996

JOHN A. BEDNARZ, JR.*
MICHAEL A. PENDOLPHI

VIA FAX AND FEDERAL EXPRESS
(717) 787-0974

July 8, 1996

RECEIVED
JUL 8 1996

BUREAU OF
TRANSPORTATION & SAFETY
TELEPHONE
(717) 821-0480
FAX
(717) 823-9477

John G. Alford, Secretary
Pennsylvania Public Utility Commission
North Office Building, Room B-20
Harrisburg, PA 17105

SECRETARY'S OFFICE
Public Utility Commission

RE.: Application of James Dainelewicz, t/d/b/a Limousines for Less
Docket No. A-00108292, Folder 1

Dear Secretary Alford:

Please find enclosed the original and two (2) copies of a Protest filed by Savage Limousine, Inc., in the above-captioned matter. Pursuant to a telephone conversation between my assistant, Beth Gush, and Lydia Walker from your office, this correspondence will confirm our understanding that, although the deadline for protesting this application expired today, you will consider our Protest to be timely received provided you receive hard copies of the same no later than Tuesday, July 9, 1996.

Please be advised that a copy of our Protest has been directed to Applicant's counsel as directed below.

Very Truly Yours,



MICHAEL A. PENDOLPHI

MAP/eg

Enclosures

cc: James D. Campbell, Jr., Esq. (via fax and regular mail)
Savage Limousines, Inc.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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BUREAU OF
TRANSPORTATION SAFETY
JUL 8 1996

IN RE: Application of James Dainelewicz,
t/d/b/a Limousines for Less

A-00108292
Folder 1

SECRETARY'S OFFICE
Public Utility Commission

PROTEST

1. AND NOW comes Savage Limousine, Inc., of 721 East Gibson Street, Scranton, Lackawanna County, Pennsylvania, 18510, and protests to the above Application.
2. The services and facilities of the Protestant and other authorized carriers are ample to meet all of the requirements of the traveling public and the territory involved in this application.
3. The approval of the Application would be prejudicial to your Protestant and other authorized carriers in this territory in that it will authorize additional competition with the potential resulting loss in revenue and less satisfactory service to the public.
4. This protest is also directed against the fitness of the Applicant.
5. Approval of said Application will be contrary to the public interest.
6. Your Protestant holds operating authority docketed to A-107330, a copy of which is attached hereto and made a part hereof as Exhibit "A".
7. Protestant knows of no amendment which would satisfy its interests in this matter but is willing to discuss the same with Applicant or Applicant's counsel.

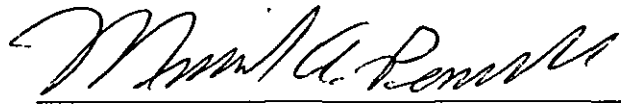
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APPLICATION DOCKET
JUL 08 1996
ENTRY No.

8. Pursuant to Section 333(c) of the Public Utility Law, Protestant requests Applicant or its attorney to furnish the undersigned with a list of names and addresses of all witnesses whom it intends to call, and the names and addresses of supporting organizations they will represent, at least ten (10) days prior to the commencement of evidentiary hearings in this case.

WHEREFORE, Savage Limousines, Inc., respectfully prays that the above Application be dismissed.

SAVAGE LIMOUSINES, INC.

BY: 
MICHAEL A. PENDOLPHI, ESQUIRE
Attorney for Protestant

DATE: 7/8/96

CHANGES MADE WITH THIS TARIFF:

- Reservations Rule is added.
- Out-Of-Pocket Expenses Rule is reworded.
- Types of Limousines are offered for Limousine Service along with complete description of their amenities.
- Existing Sedan is more fully described.
- An Explanation of Abbreviations and Reference Marks is added.
- * Hourly Rate application is reworded.

OPERATING AUTHORITY

Certificate No. A-107330

To transport, as a Common Carrier, upon request, in Limousine Service, Persons attending weddings, between homes of wedding parties, churches or places at which marriage ceremonies are performed, and places where receptions are held, in the Counties of Lackawanna, Luzerne, Susquehanna, Wyoming, Wayne, Pike and Monroe;

Subject to the following condition:

That the service herein shall be rendered in luxury type vehicles having a seating capacity of not more than eight (8) passengers, without the use of taximeters or dome lights.

To transport, as a Common Carrier, Persons, in Limousine Service, between points in the Counties of Lackawanna, Luzerne, Susquehanna, Wyoming, Wayne and Pike.

▲ EXPLANATION OF ABBREVIATIONS

Inc.	-	Incorporated
N.O.I.	-	Not Otherwise More Specifically Described Herein
No.	-	Number
P.U.C.	-	Public Utility Commission
PA.	-	Pennsylvania.

▲ EXPLANATION OF REFERENCE MARKS

↑	-	Denotes Increase
↓	-	Denotes Reduction
▲	-	Denotes Change or Addition
Ⓓ	-	Denotes Dollars

For explanation of abbreviations and reference marks, see page 2 of Tariff.

LAW OFFICES
JOSEPH P. HANYON
118 POCONO BOULEVARD
MT. POCONO, PENNSYLVANIA 18344

(717) 839-8050
FACSIMILE
(717) 839-6723

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JOSEPH P. HANYON
LL.M. TRIAL AVOCACY
LAWRENCE A.J. SPEGAR
SCOTT E. SCHERMERHORN

July 8, 1996

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BUREAU OF
TRANSPORTATION & SAFETY

CERTIFIED MAIL, RRR

Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-2265

James D. Campbell, Jr., Esq.
8631 North Front Street
Harrisburg, PA 17110-1633

Re: Protest of Pocono Limousine Services, Inc.

Ladies and Gentlemen:

Please be advised that my office represents Pocono Limousine Services, Inc. Enclosed for filing please find a Protest of Pocono Limousine Service, Inc.

Thank you for your attention.

Very truly yours,

LAW OFFICES OF JOSEPH P. HANYON

By: 

JOSEPH P. HANYON

JPH/js

f:\poconoli\protest2.dan~

cc: Pocono Limousine Services, Inc.
(w/encls)

OLDER

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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JUL 12 1996

DEPT. OF
TRANSPORTATION & SAFETY

IN RE:

JAMES DANIELEWICZ, t/d/b/a

LIMOUSINES FOR LESS

PROTEST ON BEHALF OF POCONO LIMOUSINE SERVICE, INC.

DOCKETED
APPLICATION DOCKET
JUL 11 1996
ENTRY No. *[Signature]*

Joseph P. Hanyon, Esq.
118 Pocono Boulevard
Mt. Pocono, PA 18344
(717) 839-8050

DOCUMENT
FOLDER

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE:

APPLICATION OF

JAMES DANIELEWICZ, t/d/b/a

LIMOUSINES FOR LESS

PROTEST OF POCONO LIMOUSINE SERVICE, INC.

AND NOW, comes Pocono Limousine Service, Inc. by and through its attorney, Joseph P. Hanyon, Esq., and protests this application representing as follows:

1. The name, business address and telephone number of protestant is: Pocono Limousine Service, Inc., P.O. Box 340, Mount Pocono, Pennsylvania 18344, (717) 839-2111.

2. The name, business address and telephone number of the protestant's attorney is: Joseph P. Hanyon, Esq., 118 Pocono Boulevard, Mount Pocono, Pennsylvania 18344, (717) 839-8050.

3. The authority sought by applicant is attached as Appendix "A".

4. The protestant possesses authority under Commission Docket No. A-00103841. A copy of said pertinent authority is attached hereto as Appendix "B".

5. The application will become competitive with and detrimental to existing service of Pocono Limousine Service, Inc. Protestant owns or has access to a full range of equipment for

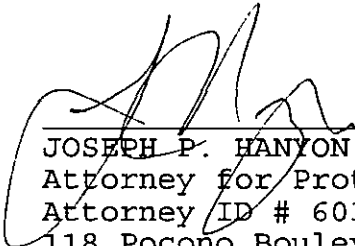
limousine service, inter alia, within the certified areas sought by applicant, has satisfactory maintenance facilities, skilled and experienced drivers and other employees.

6. Attached hereto as Appendix "C" is a suggested restrictive amendment which, if accepted by the Commission, will result in the withdrawal of the protest of the above named carrier.

7. Protestant performs services within the scope of its present authority. The diversion of revenues presently being enjoyed by Protestant, would be detrimental to and destructive of the public interest. Approval of this application is not necessary or proper for the service, accommodation, convenience or safety of the public in view of the existing and adequate services of Protestant and other carriers.

8. This protest also goes to applicant's fitness.

WHEREFORE, Pocono Limousine Service, Inc. prays that this application be dismissed.

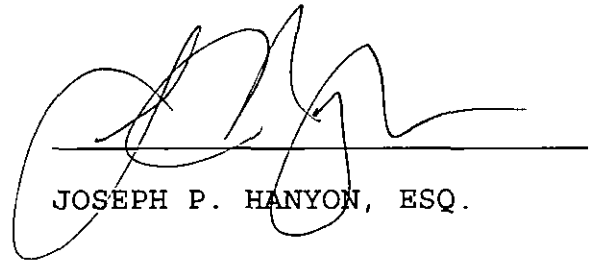


JOSEPH P. HANYON, ESQUIRE
Attorney for Protestant
Attorney ID # 60337
118 Pocono Boulevard
Mt. Pocono, PA 18344
(717) 839-8050

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon the applicant, James Danielewicz t/d/b/a Limousines for Less, at 315 Claremont Avenue, Stroudsburg, Pennsylvania 18360, and upon applicant's attorney, James D.Campbell, Jr., at 8631 North Front Street, Harrisburg, Pennsylvania 17110, by United States mail, first class, postage prepaid.

Dated: July 8, 1996



JOSEPH P. HANYON, ESQ.

"A-00108292, Folder 1. Am-B., James Danielewicz, t/d/b/a Limousines for Less (315 Claremont Avenue, Stroudsburg, Monroe County, PA 18360) - persons, in limousine service, between points in the counties of Monroe and Pike and from points in said counties to points within an airline distance of 10 statute miles of the limits thereof, and vice versa; subject to the following conditions: (a) that no right, power or privilege is granted to originate service in the counties of Lehigh and Northampton; (b) that no right, power or privilege is granted to originate service from points in the county of Monroe which are located more than 10 statute miles from the limits of the borough of Stroudsburg, Monroe County; so as to permit the transportation of persons in limousine service, between points in Wayne county, and points within an airline distance of 25 statute miles of the limits of said county, and from points in said territory to points in Pennsylvania and return. Attorney, James D. Campbell, Jr. 3631 North Front Street, Harrisburg, PA 17110-1633."

APPENDIX "A"

To transport, as a common carrier, by motor vehicle, persons, in luxury limousine service, in vehicles with a seating capacity of ten (10) passengers or less, excluding the driver, between points in the country of Monroe, and within an airline distance of five (5) statute miles of the limits thereof, and from points in said territory, to points in Pennsylvania, and vice versa.

To transport, as a common carrier, by motor vehicle, persons, in airport transfer service, from points in the County of Monroe, and within an airline distance of ten (10) statute miles of the limits thereof, to airport facilities within the said territory, and from points in said territory, to the Wilkes-Barre/Scranton Airport, located in the Township of Pittston, Luzerne County, the Allentown-Bethlehem-Easton Airport, located in the Township of Hanover, Lehigh County, and the Philadelphia International Airport located in the City and County of Philadelphia and the Township of Tinicum, Delaware County, and vice versa.

APPENDIX "B"

PROPOSED RESTRICTIVE AMENDMENT

At present there is not a restrictive amendment that Protestant knows of that will satisfy Protestant's protest.

APPENDIX "C"



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

IN REPLY PLEASE
 REFER TO OUR FILE

January 28, 1997

In Re: **A-00108292F0001, Am-B**

(See attached list)

Application of James Danielwicz, t/d/b/a Limousines For Less

For amendment to his common carrier certificate which grants the right, inter alia, to transport, by motor vehicle, persons in limousine service, between points in the counties of Monroe and Pike and from points in said counties to points within an airline distance of ten (10) statute miles of the limits thereof, and vice versa;..... SO AS TO PERMIT the transportation of persons in limousine service, between points in Wayne County, and points within an airline distance of twenty-five (25) statute miles of the limits of said county, and from points in said territory to points in Pennsylvania, and return.

Hearing Notice

This is to inform you that a hearing on the above-captioned case will be held as follows:

Type: **Initial hearing**
Date: **Wednesday, March 26, 1997**
Time: **10:00 a.m.**
Location: **Room 318
 Scranton State Office Building
 100 Lackawanna Avenue
 Scranton, Pennsylvania**

JAF

DOCKETED
 FEB 07 1997

**DOCUMENT
 FOLDER**

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 PROTHONOTARY'S OFFICE

000201

97 FEB - 6 PM 6: 08

Presiding Officer: **Administrative Law Judge Richard M. Lovenwirth**
Room 317 Scranton State Office Building
100 Lackawanna Avenue
Scranton, PA 18503
Telephone: (717) 963-4818

***Attention:** You may lose the case if you do not come to this hearing and present facts on the issues raised.*

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence **must** be submitted to the reporter. An additional copy **must** be furnished to the Presiding Officer. A copy **must** also be provided to each party of record.

Except for those individuals representing themselves, the Commission's rules require that all parties have an attorney; therefore, you should have an attorney of your choice file an entry of appearance before the scheduled hearing.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call Norma Lewis at the Public Utility Commission:

- Scheduling Office: 717-787-1399
- AT&T Relay Service number for persons who are deaf or hearing impaired:
1-800-654-5988.

pc: Judge Lovenwirth
Norma Lewis
Susan Licon, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

A-90108292F0001, Am-B Application of James Danielwicz, t/d/b/a Limousines For Less

For amendment to his common carrier certificate which grants the right, inter alia, to transport, by motor vehicle, persons in limousine service, between points in the counties of Monroe and Pike and from points in said counties to points within an airline distance of ten (10) statute miles of the limits thereof, and vice versa;..... SO AS TO PERMIT the transportation of persons in limousine service, between points in Wayne County, and points within an airline distance of twenty-five (25) statute miles of the limits of said county, and from points in said territory to points in Pennsylvania, and return.

ROSEMARIE & S R B METZ-BRUNGARD
T/A PROTEAN POTENTIALS
1 EAST MANOR AVENUE (REAR)
ENOLA PA 17025

JAMES D CAMPBELL JR ESQUIRE
3631 NORTH FRONT STREET
HARRISBURG PA 17110-1533

MICHAEL A PENDOLPHI ESQUIRE
SUITE 405 BICENTENNIAL BLDG
15 PUBLIC SQUARE
WILKES-BARRE PA 18701

JOSEPH P HANYON ESQUIRE
116 POCONO BLVD
MT POCONO PA 18344

LAW OFFICES OF
BEDNARZ & PENDOLPHI
SUITE 405
15 PUBLIC SQUARE
WILKES-BARRE, PENNSYLVANIA 18701-1704

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PROTHONOTARY'S OFFICE

JOHN A. BEDNARZ, JR.*
MICHAEL A. PENDOLPHI

TELEPHONE
(717) 821-0480
FAX
(717) 828-9477

March 11, 1997

John G. Alford, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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MAR 31 1997

RE: Application of James Dainelewicz, t/d/b/a Limousines ~~From Less~~
A-00108292, F. 1

BUREAU OF
TRANSPORTATION & SAFETY

Dear Secretary Alford:

Enclosed herein please find an original and two (2) copies of a Petition for Intervention or in the Alternative Motion to be Substituted as a Party Protestant which I am herewith submitting on behalf of my client, C.W.G. Holdings, Inc., in reference to the above-captioned Application.

A copy of said Petition has been forwarded this date to counsel for said Applicant as directed below.

Thank you.

Very Truly Yours,



MICHAEL A. PENDOLPHI

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P.A.P.U.C.
PROTHONOTARY'S OFFICE

MAP/eg
Enclosures
cc: James D. Campbell, Jr., Esquire
Carl W. Gross

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OFFICE OF C.A.L.J
PUBLIC UTILITY COMMISSION

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MAR 31 1997

OFFICE OF C.A.L.J
PUBLIC UTILITY COMMISSION

IN RE: Application of James :
Dainelewicz, t/d/b/a : A-00108292 BUREAU OF
Limousines For Less : TRANSPORTATION & SAFETY

PETITION FOR INTERVENTION, OR, IN THE ALTERNATIVE
MOTION TO BE SUBSTITUTED AS A PARTY PROTESTANT

1. AND NOW comes C.W.G. Holdings, Inc. (hereinafter "Holdings"), of 200 Ridgewood Road, Wilkes-Barre, Luzerne County, Pennsylvania, 18702, and petitions this Honorable Court to intervene in the above-referenced Application, or, in the alternative, moves this Honorable Court to be substituted as party Protestant for Savage Limousine, Inc.

2. On or about July 8, 1996, Savage Limousine, Inc. filed a Protest to the above Application with the Commission.

3. On or about July 25, 1996, the operating rights of Savage Limousine, Inc., have been transferred to C.W.G. Holdings, Inc., by Commission Order at A:00111409, F.2. Your Movant respectfully requests permission to intervene in the above-captioned proceedings due to the fact that the approval of said Application will be

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MAR 31 1997

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prejudicial to your Movant and other authorized carriers in this territory, and that it will authorize additional competition with the potential resulting loss in revenue and less satisfactory service to the public.

4. As a result of the successful transfer of authority to your Movant, your Movant is a successor-in-interest to Savage Limousine, Inc.

5. This protest is also directed against the fitness of the Applicant.

6. Approval of said Application will be contrary to the public interest.

7. Your Movant holds operating authority docketed to A-111409, F.2, a copy of which is attached hereto and made a part hereof and marked as Exhibit "A".

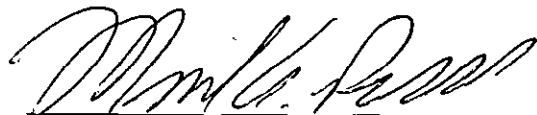
8. Movant knows of no amendment which would satisfy its interests in this matter but is willing to discuss the same with Applicant or Applicant's counsel.

9. Pursuant to Section 333(c) of the Public Utility Law, Movant requests Applicant or its attorney to furnish the undersigned with a list of names and addresses of all witnesses whom it intends to call, and the names and addresses of the supporting organizations they will represent, at least ten (10) days prior to the commencement of evidentiary hearings in this case.

WHEREFORE, C.W.G. Holdings, Inc., respectfully prays that the above Application be dismissed.

C.W.G. HOLDINGS, INC.

BY:



MICHAEL A. PENDOLPHI, ESQUIRE
Attorney for Movant

Date:

3/11/97

4 OPERATING AUTHORITY

Certificate No. A-111409, P.2

To transport, as a Common Carrier, Persons in Limousine Service:

- (1) Attending Weddings, between homes of wedding parties, churches or places at which marriage ceremonies are performed, and places where receptions are held, in the Counties of Lackawanna, Luzerne, Susquehanna, Wyoming, Wayne, Pike and Monroe;

Subject to the following condition:

That the service herein authorized shall be rendered in luxury-type vehicles having a seating capacity of not more than eight (8) passengers, without the use of taximeters or dome lights; and

- (2) Between points in the Counties of Lackawanna, Luzerne, Susquehanna, Wyoming, Wayne and Pike.

EXHIBIT "A"

APPEARANCE SHEET

ALJ HEARING REPORT

Docket A-00108292F0001,Am-B

Case Name Application of James Danielwicz,
t/d/b/a Limousines For Less

Location Scranton

Date March 26, 1997 @ 10:00 AM

ALJ Richard M. Lovenwirth

Reporting Firm Commonwealth Reporting
Co., Inc.

CHECK THOSE BLOCKS WHICH APPLY:

Prehearing held YES NO

Hearing held YES NO

Testimony taken YES NO

Hearing concluded YES NO

Further hearing needed YES NO

Estimated add'l days _____

RECORD CLOSED YES NO

DOCKETED
Briefs to be Filed
APR 03 1997
BENCH DECISION

DATE _____ YES NO

DATE _____ YES NO

3/26/97
[Signature]
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MAR 28 1997

REMARKS:
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OFFICE OF P.A.L.J.
PUBLIC UTILITY COMMISSION

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD
PLEASE PRINT CLEARLY
INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS	APPEARING FOR
James D. Campbell, Jr Caldwell & Kearns Telephone No. 717 232 7661	3631 N. Front St City Harrisburg State PA Zip 17110	Applicant ERM
Josianne Aboutanos on behalf of [unclear] Telephone No. (717) 821-0480	Suite 405 Bicentennial 15 Public Square City Wilkes-Barre State PA Zip 18701	[unclear] C.Y.G. Holdings INC SVC'S INC
Joseph P. Hannon on behalf of Poccono Limo 118 POCONO BLVD, Mt. POCONO Telephone No. (717) 839-8090 PA 18344	City _____ State _____ Zip _____	POCONO Limousine SVC'S INC

CHECK THIS BOX IF ADDITIONAL PARTIES
OR COUNSEL OF RECORD APPEAR ON BACK.

Vicki Santos
REPORTER

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
Telephone No.		City	State	Zip
Telephone No.		City	State	Zip
Telephone No.		City	State	Zip
Telephone No.		City	State	Zip
Telephone No.		City	State	Zip
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Telephone No.		City	State	Zip
Telephone No.		City	State	Zip
Telephone No.		City	State	Zip

ORIGINAL

CALDWELL & KEARNS

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

3631 NORTH FRONT STREET
HARRISBURG, PENNSYLVANIA 17110-1533

April 25, 1997

97 APR 28 11:10:22

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PROTHONOTARY'S OFFICE

OF COUNSEL
THOMAS D. CALDWELL, JR.

717-232-7661
FAX: 717-232-2766

RICHARD L. KEARNS
CARL G. WASS
JAMES R. CLIPPINGER
CHARLES J. DEHART, III
JAMES D. CAMPBELL, JR.
JAMES L. GOLDSMITH
TIMOTHY I. MARK
DEBORAH A. CAVACINI
KEVIN D. ELLIOTT

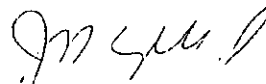
John G. Alford, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
North Office Building
Harrisburg, PA 17105-3265

RE: Application of James Danielewicz
t/a Limousines For Less, A-00108292, F.1, AmB

Dear Secretary Alford:

Please find enclosed herewith the original and two copies of a Restrictive Amendment filed in the above captioned matter. By copy of this letter, I am transmitting copies to the Administrative Law Judge and counsel of record.

Sincerely,



James D. Campbell, Jr.
CALDWELL & KEARNS

JDCJr:lf
Encls.

cc: Honorable Richard M. Lovenwirth
(Administrative Law Judge)
Joseph P. Hanyon, Esquire
Josianne Aboutanos, Esquire

71490-1
90-804

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FOLDER

ERM

ORIGINAL

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE:

Application of James Danielewicz
t/a Limousines For Less

Docket No. A-00108292,
F.1, AmB

RESTRICTIVE AMENDMENT

Now, comes James Danielewicz, t/a Limousines for Less, by his undersigned counsel, and restrictively amends the subject Application so that the same shall read as follows:

To transport as a common carrier, passengers, in limousine service, between points in Wayne County and points within an airline distance of twenty-five (25) statute miles of the limits of said County, and from points in said territory to points in Pennsylvania and return;

Subject to the following condition:

That no right, power, or privilege is granted to originate service from points in the County of Monroe which are located more than ten (10) statute miles from the limits of the Borough of Stroudsburg, Monroe

97 APR 20 10:12
RECEIVED
COUNTY CLERK OF MONROE COUNTY

JAMES DANIELEWICZ, T/A
LIMOUSINES FOR LESS

By J. D. Campbell, Jr.
James D. Campbell, Jr., Esquire
CALDWELL & KEARNS
3631 North Front Street
Harrisburg, PA 17110

DOCKETED
I.D. # 07651
Attorneys for Applicant
MAY 02 1997

86399-1
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FOLDER

ORIGINAL

CALDWELL & KEARNS

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

3631 NORTH FRONT STREET
HARRISBURG, PENNSYLVANIA 17110-1533

OF COUNSEL
THOMAS D. CALDWELL, JR.

RICHARD L. KEARNS
CARL G. WASS
JAMES R. CLIPPINGER
CHARLES J. DEHART, III
JAMES D. CAMPBELL, JR.
JAMES L. GOLDSMITH
TIMOTHY I. MARK
DEBORAH A. CAVACINI
KEVIN D. ELLIOTT

April 29, 1997

717-232-7661
FAX: 717-232-2766

DOCUMENT
FOLDER

John G. Alford, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
North Office Building
Harrisburg, PA 17105-3265

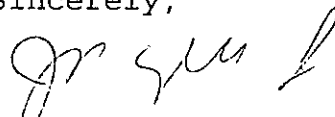
RE: Application of James Danielewicz
t/a Limousines For Less, A-00108292, F.1, AmB

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97 APR 29 PM 2:11
PA.P.U.C.'S OFFICE
PROTHONOTARY'S OFFICE

Dear Secretary Alford:

Please find enclosed herewith the original and nine copies of the Main Brief On Behalf Of Applicant in the above captioned matter. In accordance with the Certificate of Service, copies have been provided to the presiding officer and counsel of record.

Sincerely,



James D. Campbell, Jr.
CALDWELL & KEARNS

JDCJr:lf
Encls.

cc: Honorable Richard M. Lovenwirth
(Administrative Law Judge)
Joseph P. Hanyon, Esquire
Josianne Aboutanos, Esquire

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: APPLICATION OF JAMES DANIELEWICZ
T/A LIMOUSINES FOR LESS

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MAIN BRIEF ON BEHALF OF APPLICANT
JAMES DANIELEWICZ, T/A LIMOUSINES FOR LESS

James D. Campbell, Jr., Esquire
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I. STATEMENT OF THE CASE

The Application of James Danielewicz, t/a Limousines For Less ("Danielewicz" or "Applicant") seeks an expansion of its existing limousine authority so as to permit the transportation of persons in limousine service between points in Wayne County and points within an airline distance of 25 statute miles of the limits of said County, and from points in said territory to points in Pennsylvania and return.

Protests were duly filed by Savage Limousine, Inc. and Pocono Limousine Services, Inc. Hearing on the Application was held in Scranton before Judge Richard M. Lovenwirth on March 26, 1997. At the hearing, as a preliminary matter, C.W.G. Holdings, Inc. was permitted to be substituted as a Protestant in the place of Savage Limousine, Inc. as it had acquired the operating rights of Savage by transfer subsequent to filing of the original Protest. (R.6)

Subsequently, during the course of the hearing, Applicant submitted a Restrictive Amendment on the record, which resulted in the withdrawal of the Protest of Pocono Limousine Services, Inc. (R.77-79) The Amendment was subsequently submitted in written form to the Secretary and to the parties. As amended, Applicant seeks the following authority: to transport, as a common carrier, persons, in limousine service, between points in Wayne County and points within an airline distance of 25 statute

miles of the limits of said County, and from points in said territory to points in Pennsylvania and return;

Subject to the following condition:

That no right, power, or privilege is granted to originate service from points in the County of Monroe which are located more than ten statute miles from the limits of the Borough of Stroudsburg, Monroe County.

At the conclusion of the hearing, it was determined that Briefs would be filed.

II. REVIEW OF TESTIMONY

A. Applicant's Operating Testimony

James Danielewicz, the Applicant, testified that he is a sole proprietor operating under the fictitious name "Limousines For Less", which has been duly registered with the Department of State and filed with the Public Utility Commission. His business is the transportation of persons in luxury vehicles. (R.11) In addition to his authority from this Commission, Applicant also holds authority from the Interstate Commerce Commission permitting the transportation of passengers in special operations between points in the States of Pennsylvania, New York, New Jersey and Connecticut. (R.12) His existing authority from the PUC essentially authorizes transportation within ten miles of

Stroudsburg and within ten miles of the limits of Pike County.

(R.13)

Applicant's Exhibit 1 shows the Application territory which is involved in this proceeding and which essentially overlaps Danielewicz's existing rights. (A-1, R.13,14) Applicant seeks the right to transport passengers in limousine service between points within 25 miles of the limits of Wayne County and also from points within that territory to any point in Pennsylvania and return. (R.15-16)

Applicant presently operates three stretch limousines and five Town Cars in the provision of his present service. The vehicles are all late models; and the limousines are all 1996 models. The Town Cars are owned and the limousines are under long term lease to Applicant. (R.18)

Three different garages, not related to the Applicant, provide service and maintenance for the operation. (R.19)

Applicant employs "nine or ten" drivers at present, five of whom are full-time. (R.19) The company has a safety program and maintains insurance coverage exceeding the requirements of the Commission. (R.19) There are no enforcement proceedings pending against Applicant and Applicant has a strong safety record. (R.19-20) The company operates at a profit. (R.20)

Applicant's Exhibit 2 was identified as a list of the names and addresses of persons who have requested Applicant's service

within the proposed Application territory, which he could not handle because he presently lacks the proper authority. The list was compiled over a six to seven-month period, and includes 86 specific requests. (R.21) The requests were received either at his office or at bridal shows in which Applicant participates. (R.21-22) These requests were primarily for wedding service, and were offered as evidence supporting a need for local limousine service between points in the territory located within 25 miles of Wayne County, and not as evidence of need from points in that territory to points elsewhere in Pennsylvania. (R.24)

Mr. Danielewicz testified further that he had been requested by Pocono Limousine Service to provide vehicles in order to assist it in handling weddings which it had booked, but for which it had insufficient equipment available. (R.27) He had not called upon Pocono for additional equipment to supplement his fleet. (R.27)

Applicant testified that he could begin service immediately if the Application were approved. (R.27)

On cross-examination, Mr. Danielewicz indicated that he does advertise in the Pocono Mountain yellow pages, as well as in New Jersey, and that some of the persons requesting service may have called in response to the ad without knowing the extent of his present authority. (R.32-34)

When he received calls requesting service that he could not lawfully provide, he would tell the requesting party that he could not provide the service and he would refer them to Pocono Limousine if the requesting party was within that carrier's authorized territory. (R.35)

He also conceded on cross-examination that there have been times over the ten years of his operation when he has been completely booked and had to supplement his fleet by leasing vehicles from other carriers at peak periods. (R.37-38)

His gross revenues in 1996 were approximately \$400,000 and his net income was approximately \$80,000. (R.39)

Mr. Danielewicz had conducted no market study analysis with respect to Wayne County. (R.50-51)

Applicant's Exhibits 1 and 2 were admitted into evidence at page 55 of the record.

B. Supporting Witness Testimony

Mari Grabowski Quirico testified that she currently resides in Scranton, Lackawanna County. She is an intensive care unit nurse. (R.56) Her husband is a professional baseball player who formerly played for the Scranton Red Barons and is now with the Anaheim Angels. (R.57)

Mrs. Quirico had used Applicant's limousine service in the past, to points outside Pennsylvania, and found the service "very good, very thorough." (R.58)

Because of her husband's occupation, she would like to have Applicant's service available so that she could fly with her young child to be with her husband, departing from cities such as Allentown and Philadelphia. She does not like to drive to the airports. (R.58) It would be more cost effective for her if she were able to have a selection of alternative airports available to her. (R.59) She would use the service approximately every one and one-half months. Her need would continue even if her husband makes the big leagues on a permanent basis since her family will remain in the Scranton area and she would be returning from time to time for visits. (R.60)

On cross-examination, Mrs. Quirico indicated that she had used Applicant's service among other places, from Scranton to the Poconos. (R.65)

Recalled by Applicant on redirect, Mrs. Quirico stated that she had been mistaken and had meant to say that she had used Applicant from Scranton to New York and from the Poconos to New York. She had never taken a limousine trip from Scranton to the Poconos. (R.72) Her error was due to being "nervous, very nervous." (R.73)

Arthur George Blasko, Jr., of Moosic, Lackawanna County, testified that he had also in the past used Applicant's service for limousine trips to points outside Pennsylvania, primarily to New York City to attend the theater. The service has been very good and these trips have been made about four times in the last six months. (R.80-82) If the present Application were approved, Mr. Blasko and his friends would use the service every two months or so, again primarily for theater engagements, traveling to the Philadelphia area, Hershey, and the Harrisburg area. (R.82)

Mr. Blasko had never heard of C.W.G. Holdings, or its predecessor, Savage Limousine. (R.86)

He had unsuccessfully tried to contact other local carriers, specifically Touch Of Class and Elegance, based upon their yellow page ads indicating 24-hour availability. When he called, however, he got no answer, even after trying several times. (R.87-88)

Joseph Srebro, Dickson City, Lackawanna County, testified that he is an employee of the Applicant. An attorney who resides in Lackawanna County, knowing that Mr. Srebro drove for Applicant, inquired as to Applicant's availability to provide service for a trip from Lackawanna County to Philadelphia, which

Mr. Srebro told him would not be possible owing to Applicant's lack of authority. (R.90) Mr. Srebro had also tried himself to arrange service originating from Lackawanna County and had been unable to find a local carrier available on the date he wished to travel, even though he called approximately five carriers.

(R.93-94)

III. PROPOSED FINDINGS OF FACT

1. James Danielewicz, t/a Limousines For Less, is a sole proprietor presently authorized to provide certificated service by this Commission as well as the Interstate Commerce Commission.

(R.11-12)

2. Applicant presently operates three 1996 stretch limousines and five late model Town Cars in the provision of his present service. (R.18)

3. Applicant employs nine or ten drivers at present, five of whom are full-time. (R.19)

4. Applicant has a safety program and maintains insurance coverage exceeding the requirements of the Commission. (R.19)

5. There are no enforcement proceedings pending against Applicant and Applicant has a strong safety record. (R.19-20)

6. Applicant operates at a profit; his gross revenues in 1996 were approximately \$400,000 and his net income was approximately \$80,000. (R.20, 39)

7. Over a six to seven-month period, Applicant received eighty-six (86) specific requests for service from points in the Application territory which he cannot presently serve. (R.21-22, Applicant's Exhibit 2)

8. The requests for service received by Applicant generally represent the geographical territory which Applicant seeks to serve by the present Application. (Applicant's Exhibit 2)

9. The supporting public witnesses who presented testimony in behalf of Applicant demonstrated need from the most heavily populated portion of the origin territory to other points in Pennsylvania including the Harrisburg area, the Philadelphia area, Hershey, and the Allentown-Bethlehem, Easton area. (R.58,82,90)

IV. ARGUMENT

A. APPLICANT HAS ESTABLISHED ITS FITNESS TO RECEIVE THE EXPANDED OPERATING AUTHORITY FOR WHICH IT HAS APPLIED.

Where, as here, an Applicant is merely seeking to expand its certificated authority, the Applicant is presumed to be

technically and financially fit. The testimony of Mr. Danielewicz re-enforces the presumption and clearly establishes Applicant's fitness. Applicant has the physical facilities, equipment and employees necessary to provide the proposed service and is operating at a profit. Applicant has a very good safety record and maintains insurance coverage exceeding the Commission's requirements.

Further, the supporting witnesses who testified in this case confirmed that the service they have received from Limousines For Less under existing authority has been very good. All elements of Applicant's fitness have been established.

B. APPLICANT HAS ESTABLISHED A NEED FOR THE PROPOSED SERVICE.

The Judge and the Commission can take notice that proof of "necessity" for a limousine service presents somewhat of a conceptual dilemma. The fact of the matter is that limousine transportation is not "necessary" transportation; it is transportation which is availed of by wealthy individuals, sports figures, show business personalities, and others who seek luxury transportation in private, or with a small group of friends. People of average means partake of limousine service only on limited occasions, such as weddings, prom nights, bachelor

parties, and the like; or for a peaceful, less stressful trip to the airport.

By its nature, it differs from the transportation of passengers in scheduled route service, or in call or demand service where more serious "needs" are involved.

As in the case of household goods carriers, the transportation is not commonly engaged in on a regular basis, but only infrequently in the average person's life. For this reason, the Commission has been somewhat liberal in reviewing evidence of need in limousine cases, as it has done, as well, in cases involving the transportation of household goods.

Looking at the Application in this context, Applicant submits that it has adequately carried its burden of proving need for the proposed service.

The Commission's Transportation Regulatory Policy provides at 52 Pa. Code §41.14 that an Applicant has the burden of establishing that the proposed service will serve a useful public purpose responsive to a public demand or need. Applicant is not required to prove necessity for every square mile for which it seeks operating authority; however, it is required to submit a representative showing from the Application territory under consideration. Application of Lyons Transportation, Inc., 42 Pa. PUC 605 (1966); Application of Blue Bird Coach Lines, Inc., 72 Pa. PUC 262 (1990). Although at first blush an Application

territory measured by points within 25 miles of the limits of Wayne County seems like an ambitious territory, Applicant's existing authority already permits transportation between points within ten miles of the limits of the borders of Pike County and Monroe County (except points in Monroe County more than ten miles from Stroudsburg and except points in Northampton and Lehigh Counties). Thus, Applicant already holds authority in a good portion of Wayne County, portions of Lackawanna, Luzerne, and Carbon Counties; and it can provide interstate service at present to this entire territory. Apart from the metropolitan Scranton/Wilkes-Barre corridor along I-81, the rest of the Application territory is very rural and sparsely populated.

Applicant's supporting witnesses provided evidence of need from the metropolitan centers to points in Pennsylvania including the Philadelphia area, the Harrisburg area, Hershey, as well as airports in Philadelphia and Allentown-Bethlehem-Easton.

With respect to local service between points within 25 miles of the limits of Wayne County, Applicant presented uncontroverted evidence of requests for service received by himself or his staff in the ordinary course of business which clearly established representative support for the Application throughout that territory for the occasional user of limousine service, primarily wedding parties. (Applicant's Exhibit 2) These requests are

more thoroughly set forth and analyzed in Appendix 1 to this Brief.

At Appendix 1, Applicant has summarized representative points in the Application territory from which witnesses indicated transportation requirements which Applicant cannot presently serve under its existing authority from this Commission.

Tested under any reasonable standard, it is submitted that Applicant has established need for approval of the Application in its entirety.

C. THE REMAINING PROTESTANT HAS NOT SHOWN THAT APPROVAL OF THE APPLICATION WOULD BE INCONSISTENT WITH THE PUBLIC INTEREST.

Under the Transportation Regulatory Policy, an Applicant no longer has the burden of proving inadequacy of existing service. Further, the burden has been shifted to the Protestant, once need has been established, to establish that the entry of Applicant into the transportation field would endanger its operations to the extent that granting the Application would be contrary to the public interest. In the present proceeding, the sole Protestant chose not to present any evidence concerning its revenues, operations, or existing service. Even more significantly, Applicant's proposed service differs substantially from the

service presently authorized to be provided by Protestant, since Protestant has no authority to render transportation to points such as Harrisburg, Allentown, Bethlehem, Easton, Hershey, and Philadelphia; its authority is limited to the transportation of persons between points in the Counties of Lackawanna, Luzerne, Susquehanna, Wyoming, Wayne and Pike.

As previously noted, however, there is no evidence that C.W.G. actually provides service in any of those Counties, based upon its failure to present any evidence concerning its operations.

Even prior to the Transportation Regulatory Policy, the Commission had repeatedly held that no carrier has a right to be guaranteed freedom from competition. It is within the province of the Commission to determine the extent of appropriate competition within an Application territory.

Clearly, there is no evidence in this record which would justify any measure of protection to be imposed in behalf of this Protestant.

V. CONCLUSIONS OF LAW

1. Applicant has filed a proper Application and the Commission has jurisdiction over the subject matter.

2. Applicant has carried his burden of establishing his technical and financial fitness and his propensity to operate lawfully.

3. Applicant has carried his burden of demonstrating that approval of the Application will serve a useful public purpose, responsive to a public demand or need.

4. The witnesses presented by the Applicant, as supplemented by the Request Testimony Exhibit, were sufficient in number and geographical representation to warrant approval of the Application in its entirety.

5. The sole Protestant in this proceeding presented no testimony concerning its operations and therefore has failed to carry its burden of demonstrating that approval of the Application would endanger the operations of existing carriers to such an extent that, on balance, the granting of authority would be contrary to the public interest.

6. The sole Protestant has no authority to transport passengers from points in the Application territory to points such as Philadelphia, Allentown, Hershey, or Harrisburg, as to which the public witnesses demonstrated need for service.

VI. PROPOSED ORDER

Approval of the Amended Application is proper for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the Application, as amended, be and is hereby approved and that the certificate issued May 11, 1990, be amended to include the following right:

To transport, as a common carrier by motor vehicle, passengers, in limousine service, between points in Wayne County and points within an airline distance of twenty-five (25) statute miles of the limits of said County, and from points in said territory to points in Pennsylvania and return;

Subject to the following condition:

That no right, power of privilege is granted to originate service from points in the County of Monroe which are located more than ten (10) statute miles from the limits of the Borough of Stroudsburg, Monroe County.

IT IS FURTHER ORDERED: That the authority granted herein to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right.

IT IS FURTHER ORDERED: That the Applicant shall not engage in any transportation pursuant to the foregoing additional right until it has submitted to the Commission a tariff establishing just and reasonable rates.

IT IS FURTHER ORDERED: That in the event said Applicant has not, on or before sixty (60) days from the date of the service of

this Order, complied with the requirements hereinbefore set forth, the Application shall be dismissed without further proceedings.

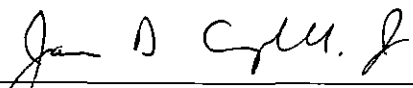
VII. CONCLUSION

Applicant has carried its burden of proving its fitness to receive the expanded authority sought by this Application, and has established by substantial evidence that its Application would serve a useful public purpose, responsive to a public demand or need. Therefore, its Application should be approved in its entirety.

Respectfully submitted,

CALDWELL & KEARNS

By


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I.D. #07051
Attorneys for Applicant
James Danielewicz, t/d/b/a
Limousines for Less

Dated: April 29, 1997

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APPENDIX 1

Compilation of points in the Application territory which Applicant has been requested to serve, from Applicant's Exhibit 2. Multiple requests are shown in parentheses. Points eliminated by Restrictive Amendment or otherwise outside the Application territory have been deleted.

Carbon Co.

Albrightsville (3)

Lackawanna Co.

Archbald
Carbondale
Dalton
Dunmore
Moosic
Moscow (3)
Olyphant
Peckville
Scranton (3)
Simpson
Throop

Luzerne Co.

Pittston
Wilkes-Barre (3)

Susquehanna Co.

Forest City

Wayne Co.

Beach Lake
Gouldsboro
Honesdale (8)
Lake Ariel (3)
South Canaan
Waymart (4)

Wyoming Co.

Tunkhannock

CERTIFICATE OF SERVICE

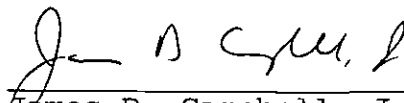
I hereby certify that I have this day served copies of the foregoing document upon counsel for the parties of record in this proceeding, as well as the presiding officer, as follows:

Honorable Richard M. Lovenwirth (1 copy)
Administrative Law Judge
Room 318
Scranton State Office Building
100 Lackawanna Avenue
Scranton, PA 18505

Joseph P. Hanyon, Esquire (3 copies)
118 Pocono Boulevard
Mt. Pocono, PA 18344

Josianne Aboutanos, Esquire (3 copies)
Bednarz & Pendolphi
Suite 405 Bicentennial Building
15 Public Square
Wilkes-Barre, PA 18701

Dated this 29th day of April, 1997.



James D. Campbell, Jr., Esquire

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA. 17105-3265
JULY 16, 1997



IN REPLY PLEASE
REFER TO OUR FILE
A-00108292

DANIELEWICZ, JAMES
T/A LIMOUSINES FOR LESS
315 CLERMONT AVENUE
STROUDSBURG PA 18360

NOTICE TO LIFT SUSPENSION

This is to notify you that we have received proof of insurance coverage. Therefore, you may disregard the Notice of Suspension previously issued.

Very truly yours,
Insurance Unit
Financial Responsibility Section
Bureau of Transportation and Safety

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