



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

IN REPLY PLEASE  
REFER TO OUR FILE

February 25, 2015

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

Re: Pennsylvania Public Utility Commission, Bureau of Investigation  
and Enforcement v. Jesse Zumstein t/a J & M Transport  
Docket No. C-2014-2444511

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Motion for Default Judgment of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-captioned matter.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

Kourtney L. Myers  
Prosecutor  
PA Attorney I.D. No. 316494

Enclosure

cc: As per certificate of service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

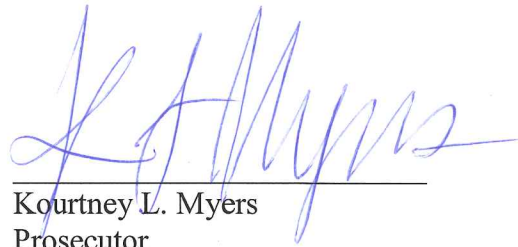
Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	Docket No. C-2014-2444511
v.	:	
	:	
Jesse Zumstein t/a J & M Transport	:	
Respondent	:	

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §5.103, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) has filed a Motion for Default Judgment in the above-captioned matter. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with Commission procedural regulations at 52 Pa. Code §5.61.

Your Answer must be verified and the original sent to:  
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Additionally, you must serve a copy on:  
Wayne T. Scott  
First Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105



\_\_\_\_\_  
Kourtney L. Myers  
Prosecutor  
PA Attorney I.D. 316494

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 705-4366

Dated: February 25, 2015

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	Docket No. C-2014-2444511
v.	:	
	:	
Jesse Zumstein t/a J & M Transport	:	
Respondent	:	

**MOTION FOR DEFAULT JUDGMENT**

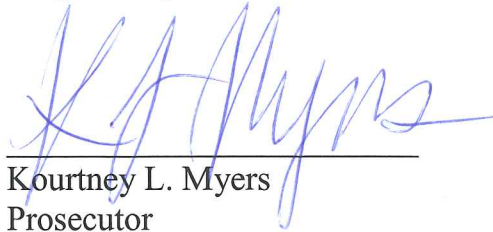
NOW COMES the Pennsylvania Public Utility Commission’s (Commission) Bureau of Investigation and Enforcement (I&E), by its prosecuting attorneys, and files this Motion for Default Judgment against Jesse Zumstein t/a J & M Transport (Respondent) pursuant to Section 5.103 of the Commission’s regulations, 52 Pa. Code §5.103. In support thereof, I&E respectfully represents as follows:

1. I&E commenced this action on September 25, 2014 by filing a Complaint.
2. On September 26, 2014, the Complaint was served by certified mail to Respondent at 3077 Clover Creek Road, Martinsburg, PA 16662.
3. This is the last known mailing address that Respondent provided to the Commission.
4. On October 14, 2014, the Complaint was returned to the Commission by the United States Post Office and was marked as “Return to Sender.”
5. On October 17, 2014, the Complaint was re-served to Respondent at P.O. Box 374, Martinsburg, PA 16662.
6. While there is no record that this Complaint was returned to the Commission, I&E was unable to obtain certification that Respondent received the Complaint.

7. Pursuant to the Commission's procedural regulations at 52 Pa. Code §1.53(e), the Complaint was published in the Pennsylvania Bulletin on January 24, 2015. *See* 45 Pa. Bull. 480 (January 24, 2015).
8. Included with the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days.
9. The Notice also advised Respondent that if it failed to answer the Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Complaint.
10. Respondent did not file an Answer to the Complaint.
11. Pursuant to Section 5.61(c) of the Commission's regulations, a Respondent who fails to file an Answer to a Complaint within the 20-day response period may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code §5.61(c).
12. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. *See Fusaro v. Pa. PUC*, 382 A.2d 794, 797 (Pa. Cmwlth. 1978).
13. Respondent did not pay its outstanding assessment balance of \$216 or the \$1,032 civil penalty that was requested in the Complaint for Respondent's failure to pay the Commission's assessment for the 2012-2013 fiscal year and file an assessment report demonstrating its 2011 calendar year revenues.
14. I&E respectfully requests that the Commission enter a Default Order against Respondent that:
  - a. Directs Respondent to pay its outstanding assessment of \$216 for the 2012-2013 fiscal year and the requested civil penalty of \$1,032 within thirty (30) days of the entry date of the Commission's Order;
  - b. Directs the Bureau of Technical Utility Services to cancel Respondent's certificate of public convenience at A-00119892 if the assessment and civil penalty are not timely paid;
  - c. Notifies Respondent that a copy of this Order will be sent to the Pennsylvania Department of Transportation for the suspension or revocation of vehicle registrations that were used under Respondent's operating authority; and

- d. Directs the Bureau of Administrative Services, Assessment Section to refer the matter to the Pennsylvania Office of Attorney General for collection of the unpaid assessment.

Respectfully submitted,



---

Kourtney L. Myers

Prosecutor

PA Attorney ID No. 316494

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

Date: February 25, 2015

## VERIFICATION

I, Mandy Freas, Accountant, Bureau of Administrative Services, Assessment Section, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: February 25, 2015



---

Mandy Freas, Accountant  
Assessment Section  
Bureau of Administrative Services  
PA. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

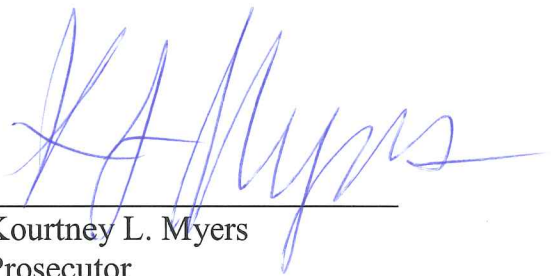
## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a party).

### Service by First Class Mail:

Jesse Zumstein, President  
Jesse Zumstein t/a J & M Transport  
3077 Clover Creek Road  
Martinsburg, PA 16662

Jesse Zumstein, President  
Jesse Zumstein t/a J & M Transport  
P.O. Box 374  
Martinsburg, PA 16662



---

Kourtney L. Myers  
Prosecutor  
PA Attorney I.D. No. 316494

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 705-4366

Dated: February 25, 2015