

LAW OFFICES
NAUMAN, SMITH, SHISSLER & HALL

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P. O. Box 840
HARRISBURG, PENNSYLVANIA 17108-0840

SPENCER G. NAUMAN, JR.
JOHN C. SULLIVAN
J. STEPHEN FEINOUR
CRAIG J. STAUDENMAIER
BENJAMIN C. DUNLAP, JR.
STEPHEN J. KEENE

TELEPHONE
(717) 236-3010
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(717) 234-1925

COUNSEL
RALPH W. BOYLES, JR.
DAVID C. EATON
DIRECT E-MAIL ADDRESS
NSSH@REDROSE.NET

February 20, 1998

HAND DELIVERED

The Honorable Wayne L. Weismandel
Administrative Law Judge
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

RE: STACIA H. GROVE t/d/b/a Central Pennsylvania Limousine Service (562 East Heatherfield Way, Red Lion, York County, PA 17345) - persons in limousine service between points in the counties of York, Lancaster, and Dauphin, and from points in the said territory to points in Pennsylvania and return; A-00114058

Dear Judge Weismandel:

Pursuant to the agreement of counsel for the Protestants at the initial hearing of this matter, my client, Stacia H. Grove, has arranged for two witnesses to testify in support of her application in the above proceeding via telephone at the further hearing scheduled for Tuesday, February 24, 1998. I have attempted to reiterate this prior agreement by leaving a message on Mr. Pohlman's voice mail and have received no opposition from him in this regard. You had requested that I inform you by today as to any witnesses who will be testifying via telephone so that arrangements could be made to have the proper equipment in the courtroom that day.

The witnesses who will be testifying via telephone are as follows:

1. John Johns
New West Products, Inc.
South Pasadena, CA
(626) 441-6161
2. Frank King
Frank King Photography & Video
Dover, PA

Mr. King will be in Florida on February 24, 1998, and will be reachable at (407) 856-9344.

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Honorable Wayne L. Weismandel

February 20, 1998

Page 2

Mr. King will be available at the above telephone number between 10:30 a.m. and noon on the day of the hearing, and Mr. Johns will be available at the listed number between 11:00 a.m. and 1:00 p.m. Eastern time. Thank you for your cooperation in this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Benjamin C. Dunlap, Jr." The signature is written in dark ink and is positioned to the right of the typed name.

Benjamin C. Dunlap, Jr.

BCDJR/bmd

cc: Scott Pohlman (via hand delivery w/ encl.)
Stacia H. Grove
Frank King (via telefax)
John Johns (via telefax)

LAW OFFICES
NAUMAN, SMITH, SHISSLER & HALL

ORIGINAL

18TH FLOOR
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DOCUMENT
FOLDER

February 20, 1998

HAND DELIVERED

James McNulty, Prothonotary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

RE: **STACIA H. GROVE t/d/b/a Central Pennsylvania Limousine Service (562 East Heatherfield Way, Red Lion, York County, PA 17345) - persons in limousine service between points in the counties of York, Lancaster, and Dauphin, and from points in the said territory to points in Pennsylvania and return; A-00114058**

Dear Sir:

I enclose an original and three (3) copies of the Renewed Motion for Sanctions for filing in the above matter. In accordance with the accompanying Certificate of Service we have provided copies of the Motion to all active parties of record. Please time-stamp the original and all copies and return a time-stamped copy to our messenger. Thank you for your assistance.

Sincerely yours,

Barbara Drake

Barbara Drake
Secretary to
Benjamin C. Dunlap, Jr., Esquire

/bmd

Enclosures

cc: Scott Pohlman (w/encl.)
Stacia H. Grove (w.encl.)
ALJ Wayne L. Weismandel (w.encl.)

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ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE: :
STACIA H. GROVE t/d/b/a :
CENTRAL PENNSYLVANIA :
LIMOUSINE SERVICE (562 East :
Heatherfield Way, Red Lion, York :
County, PA 17356) - persons in :
limousine service between points in :
the counties of York, Lancaster, :
and Dauphin, and from points in the :
said territory to points in :
Pennsylvania and return :

**A-00114058 DOCUMENT
FOLDER**

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FEB 24 1998

RENEWED MOTION FOR SANCTIONS

Applicant Stacia H. Grove t/d/b/a Central Pennsylvania Limousine Service ("Grove") by her counsel, Nauman, Smith, Shissler & Hall, files this renewed motion for sanctions against Protestants White Rose Limousine, Inc. ("White Rose"); Unique Limousine Service, Inc. ("Unique"); Keystone Limousine, Inc. ("Keystone"); and Salgals Inc. t/d/b/a Villa Limousine Service ("Villa"), pursuant to 52 Pa. Code §§ 5.371-2, based upon the following:

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1. On November 19, 1997, Grove filed interrogatories and document requests directed to White Rose, Unique, Keystone and Villa. Copies of those discovery requests with the Protestants' responses thereto were attached to Grove's Motion for Sanctions filed February 4, 1998, as Exhibits A, B, C & D, respectively.

2. In the aforementioned discovery requests, Grove requested copies of each Protestant's audited financial statements, if such exist, or copies of any compilation or review of each

corporation's finances by a certified public account, a bookkeeping service provider or any other person, for the past three fiscal years; copies of each Protestant's corporate tax returns for the past three fiscal years; and copies of any reports regarding each Protestant's finances submitted to the Pennsylvania Public Utility Commission within the past three reporting years, including, but not limited to, assessment reports submitted to the Commission pursuant to 52 Pa. Code § 29.43. See Exhibits "A", "B", "C" and "D" attached to Grove's Motion for Sanctions at ¶¶ 5, 6, 8.

3. In response to the request for financial statements and corporate tax returns, each of the Protestants responded that the requested documents are "privileged and proprietary information." The Protestants further responded that "relevant financial records are available through the Public Utility Commission." *Id.* at ¶¶ 5, 6.

4. In response to the requests for any financial reports submitted to the Public Utility Commission, each of the Protestants responded that "such reports are a matter of public record and available at the Public Utility Commission." *Id.* at ¶ 8.

5. None of the aforementioned requested documents are matters of public record available through the Public Utility Commission.

6. No Protestant filed objections to any of the aforementioned discovery requests nor did any Protestant file a request for a protective order within the applicable time constraints or at any time thereafter. See 52 Pa. Code §§ 5.342(d)(1), 5.423(b)(4).

7. The Protestants propounded substantively similar interrogatories and document requests regarding Grove's finances to which Grove fully responded prior to the initial hearing.

8. At the initial hearing of this matter on December 16, 1997, following Grove's request that sanctions be imposed for the Protestants' failure to respond to the aforementioned discovery requests, the Protestants preliminarily agreed to supply Grove with assessment reports filed with the Commission and to later address the supplying of the requested financial statements and tax returns if the assessment reports did not meet Grove's needs. N.T. 26-32, 108-9.

9. The Protestants subsequently supplied Grove with the 1995 and 1996 assessment reports filed with the Commission for Unique, White Rose and Villa. No assessment reports were supplied for Keystone.

10. The aforementioned assessment reports provide only information regarding each Protestant's gross operating revenues, gross intrastate operating revenues and gross interstate operating revenues. These reports provide no information regarding profitability or other indicators of the financial health of the company. See, *e.g.*, Exhibit "E" attached to Grove's Motion for Sanctions.

11. Information regarding the profitability and financial health of the Protestants is essential for Grove to conduct effective cross examination as to the Protestants' contentions in their amended protests that "[e]ntry of the Applicant would endanger and impair the operations of existing

carriers . . . including this Protestant, and would be contrary to the public interest" and that approval of Grove's application "would create new unwarranted competition to the detriment of Protestant and other operators and ultimately the public, tending to deprive Protestant of customers and revenues, which are needed to maintain a safe transportation system." The requested corporate tax returns and financial statements are therefore relevant to the subject matter involved in this proceeding. 52 Pa. Code § 5.321(c).

12. Protestants have the burden of establishing "that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest." 52 Pa. Code § 41.14(c). Pursuant thereto, the requested corporate tax returns and financial statements are relevant to the subject matter involved in this proceeding. 52 Pa. Code § 5.321(c).

13. Grove informed counsel for the Protestants that the assessment reports supplied do *not provide* sufficient information to enable Grove to conduct effective and informed cross examination as to the financial matters put at issue by the Protestants and as to which they have the burden of proof, yet they refused to supply the requested corporate tax returns and financial statements and continue to refuse to do so.

14. Grove filed a motion for sanctions for Protestants' failure to provide the aforementioned discovery requests on February 4, 1998.

15. By Order dated February 10, 1998, the Honorable Wayne L. Weismandel ordered that Protestants produce the aforementioned documents requested by Grove not later than February 17, 1998.

16. Protestants did not produce the aforementioned requested documents by February 17, 1998, as ordered by Judge Weismandel, nor have they produced the requested documents to date.

WHEREFORE, Stacia H. Grove t/d/b/a Central Pennsylvania Limousine Service requests that the Commission or presiding officer enter an Order establishing as a designated fact that the entry of Grove into the field would not endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest. Alternatively, Grove requests that the Commission or presiding officer enter an Order *prohibiting the Protestants from supporting their claim, or introducing into evidence any documents or testimony in support of their claim, that the approval of Grove's application "would create new unwarranted competition to the detriment of Protestant and other operators and ultimately the public, tending to deprive Protestant of customers and revenues, which are needed to maintain a safe transportation system" or that "[e]ntry of the Applicant would endanger and impair the operations of existing carriers . . . including this Protestant, and would be contrary to the public interest."* Grove further requests that the Protestants be ordered to pay her counsel fees of \$360.00 incurred in the preparation and filing of this and previous motions regarding the Protestants' failure to supply requested discovery documents.

RESPECTFULLY SUBMITTED,
NAUMAN, SMITH, SHISLER & HALL

By *Benjamin C. Dunlap, Jr.*
Benjamin C. Dunlap, Jr., Esquire
Supreme Court I.D. #66283

200 North Third Street, 18th Floor
P. O. Box 840
Harrisburg, PA 17108-0840
717-236-3010
Attorney for Stacia H. Grove t/d/b/a Central
Pennsylvania Limousine Service

Date: *February 20, 1998*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE:	:	
STACIA H. GROVE t/d/b/a	:	A-00114058
CENTRAL PENNSYLVANIA	:	
LIMOUSINE SERVICE (562 East	:	
Heatherfield Way, Red Lion, York	:	
County, PA 17356) - persons in	:	
limousine service between points in	:	
the counties of York, Lancaster,	:	
and Dauphin, and from points in the	:	
said territory to points in	:	
Pennsylvania and return	:	

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing "**Renewed Motion for Sanctions**" in the above action, this day by hand delivery, addressed to:

SERVICE LIST

Scott Pohlman, Esquire
Robinson & Geraldo
4407 North Front Street
P. O. Box 5320
Harrisburg, PA 17110
Counsel for Protestants, Salgals, Inc. t/d/b/a Villa Limousine Service,
Keystone Limousine, Inc., White Rose Limousine, Inc. and
Unique Limousine Service, Inc.



Barbara Drake, Secretary to
Benjamin C. Dunlap, Jr., Esquire

Dated: February 20, 1998



ORIGINAL

February 23, 1998

HAND DELIVERED
James McNulty, Prothonotary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

RE: STACIA H. GROVE t/d/b/a Central Pennsylvania Limousine Service; A-00114058

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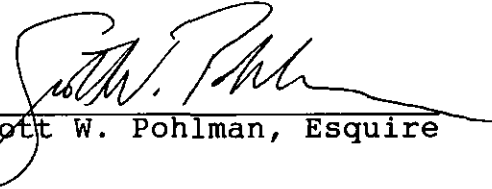
Dear Mr. McNulty:

I have enclosed three copies of Protestants Answer to Applicants Renewed Motion for Sanctions. A copy was hand delivered to Judge Weismandel. A copy was sent by telecopier to Applicant's attorney.

Please contact our office if you have any questions.

Sincerely yours,

ROBINSON & GERALDO

By 
Scott W. Pohlman, Esquire

DOCUMENT
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SWP:jmf
Enclosures
cc: Unique Limousine
Judge Weismandel

47

7. Paragraph 7 is admitted. The Applicant has responded to the Protestant's interrogatories. Applicant also presented financial information in their case.

8. Paragraph 8 is admitted.

9. Paragraph 9 is admitted, by way of further answer, the Protestant is not in possession of Keystone's records.

10. Paragraph 10 is admitted in part and denied in part, the information in the reports is the gross operating revenues, gross interstate operating revenue and the gross intrastate operating revenue, it is denied that the information does not indicate the financial health of the company.

11. Paragraph 11 is denied, the information is not essential for effective cross examination, as no testimony will be presented relating to the financial health and profitability of the Protestants.

12. Paragraph 12 denied, it is denied that the requested information is relevant. By way of further answer, it is admitted that the Protestants have the burden of establishing "the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest". The requested documents are only relevant if the Protestant enters testimony about the financial status and profitability of the Protestants.

13. Paragraph 15 is admitted, by way of further answer, the Protestants do not intend to enter any testimony relating to the profitability or financial condition of their operations.

14. Paragraph 14 is admitted.

15. Paragraph 15 is admitted.

16. Paragraph 16 is admitted.

NEW MATTER


17. The Protestants do not intend to offer any evidence or testimony as to the financial status or condition of their operations.

18. The Protestants do not intend to offer any evidence or testimony as to the financial affect that the Applicant would have upon them.

WHEREFORE, Protestants Unique Limousine Services, Inc., Keystone Limousine, Inc., White Rose Limousine, Inc., Salgals, Inc. t/d/b/a Villa Limousine Service, request that Judge Weismandel or the Commission issue an order denying the Applicant's motion for sanctions, but limit the Protestant's testimony to non-financial issues.

Respectfully submitted,

ROBINSON & GERALDO

By 
Scott W. Pohlman, Esquire
4407 N. Front Street
P.O. Box 5320
Harrisburg, PA 17110
(717) 232-8525
Pa I.D. #78004
Attorney for Protestants

Date: February 23, 1998

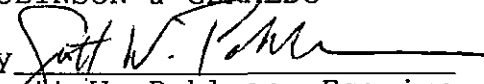
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY
COMMISSION

IN RE: A-00114058. Stacia H. Grove, t/d/b/a Central Pennsylvania Limousine Service (562 East Heatherfield Way, Red Lion, York County, PA 17356), - persons, in limousine service, between points in the counties of York, Lancaster, and Dauphin, and from points in the said territory to points in Pennsylvania and return.

I hereby certify that I served the foregoing "Answer to Applicants Renewed Motion for Sanctions and New Matter" in the above action, this day by hand delivery to Judge Weismandel and James McNulty at the Public Utility Commission and by telecopier to Ben Dunlap the Applicants attorney, addressed to:

Benjamin C. Dunlap, Jr., Esquire
NAUMAN, SMITH, SHISSLER & HALL
200 North Third Street, 18th Floor
P.O. BOX 840
Harrisburg, PA 17108-0840
FAX (717) 234-1925

ROBINSON & GERALDO

By 
Scott W. Pohlman, Esquire
Attorney I.D. No. 78004
4407 North Front Street
P.O. Box 5320
Harrisburg, PA 17110
(717) 232-8525

February 23, 1998

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APPEARANCE SHEET

ALJ HEARING REPORT

Docket No. A-00114058

Case Name Application of Stacia H. Grove,
t/d/b/a Central PA Limousine Service

Location Harrisburg

Date February 24 & 25, 1998

ALJ J. Weismandel

CHECK THOSE BLOCKS WHICH APPLY:

Prehearing held YES NO

Hearing held YES NO

Testimony taken YES NO

Transcript due YES NO

Hearing concluded YES NO

Further hearing needed YES NO

Estimated add'l days N/A

RECORD CLOSED YES NO

DATE _____

Briefs to be Filed YES NO

DATE MAIN - 4/24/98 REPLY - 5/8/98

BENCH DECISION YES NO

DOCKETED

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Reporting Firm Commonwealth PA PU

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REMARKS: HEARING ON 2/25/98 CANCELLED,

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
Scott W. Pohlman, Esq. Telephone No. 717-232-8525	4407 N. Front Street PO BOX 5320 City Harrisburg State PA Zip 17110	Uniguard Kingston Salgab White Rock 98 MAR -2 AM 9:15 RECEIVED
James J. Salinger Telephone No. 717-233-4431	1301 N Cameron St. City Hbg State PA Zip 17103	PA PUBLIC DEFENDER'S OFFICE
Benjamin C. Dunlap, Jr. Norman, Smith, Shirsler & Hall Telephone No. (717) 236-3010	200 N. Third Street P.O. Box 840 City Harrisburg State PA Zip 17108	Stacia H. Grove

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

Valorie H. Rosi
REPORTER
Valorie H. Rosi

Name, Title and Telephone Number	Address			Appearing for
Stacia H. Grove	562 E. Heatherfield Way			SELF
Telephone No. 246-9409	City Red Lion	State PA	Zip 17356	
Todd G. Grove	562 E. Heatherfield Way			CENTRAL PENNSYLVANIA Lim. SERVICE
Telephone No. (717) 246-9409	City Red Lion	State PA.	Zip 17356	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
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