

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SCOTT LUELLEN,

Complainant

v.

Docket C-2016-2539599

MAROADI TRANSFER & STORAGE, INC.

1801 Lincoln Hwy, North Versailles, PA 15137

Respondent

**COMPLAINANT'S SECOND MOTION TO COMPEL ANSWERS
TO INTERROGATORIES**

NOW COMES Complainant and moves this Court compel Respondent to fully and completely answer its second set of interrogatories, and in support states:

1. On July 1, 2016, Complainant filed its second request to answer interrogatories;
2. On June 5, 2016, this Commission DENIED Respondent's preliminary objections and is ordering an evidentiary hearing at a near future date; unfortunately, the Respondent has, and here continues, to obstruct the discovery process that is the necessary prerequisite to complete the identification and collection of evidence required for such a hearing.
3. On July 8, 2016 – three days after this Commission DENIED Respondent's preliminary objections and indicated the need for an evidentiary hearing -- Respondent again is refusing to participate in discovery, this time by refusing to answer Complainant's second interrogatories by, incredibly, claiming that both the identity of the Respondent's Internet Service Provider or email hosting company, and identity and contact information of

Respondent's officers and shareholders of the Respondent, whom may have personal liability here, are "proprietary" and "confidential."

4. Respondent's pleading sets a new low for frivolous motions practice before this Commission. As a member of the Pennsylvania Bar Association, Respondent's counsel knows, or may be reasonably expected to know, that there is no good faith basis or legal foundation to claim that the identities of a commercial vendor and the officers and shareholders of a company and how to serve them when they are prospective witnesses are proprietary or confidential.
5. *Black's Law Dictionary* defines "proprietary," the term used by Respondent to rationalize why it will not disclose its Internet Service Provider or custodian of email records, as "one who has the exclusive title to a thing."¹ For certain, the Respondent neither owns nor controls exclusive use of its Internet Service Provider; by definition, it is a commercial service available to the general public for anyone who pays them. Moreover, ISPs engage in aggressive marketing and sales activity trying to make their services available to anyone and everyone. They are the exact opposite of exclusive or "proprietary."
6. Similarly, in Pennsylvania, "trade secrets" are defined by and protected through a statute known as the Pennsylvania Uniform Trade Secrets Act ("PUTSA").² The PUTSA preempts all other law and statutorily defines what a "trade secret" is within the Commonwealth of Pennsylvania (See 12 Pa. C.S. § 5308; *Firsttrust Bank v. DiDio*, No. 200 March Term 2005, 2005 Phila. Ct. Com. Pl. LEXIS 376, 2005 WL 2001105 (C.P. Phila. July 29, 2005)).
7. The PUTSA defines "trade secrets" as information that: "derives independent economic value, actual or potential, from not being generally known to, and not being readily

¹ *Black's Law Dictionary*, 2nd Ed.

² The Pennsylvania Uniform Trade Secrets Act is codified at 12 Pa.C.S. § 5301-5308.

ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.” For the same reasons that the identity of Respondent’s ISP and email custodian are not “proprietary,” nor is it a “trade secret.”

8. The owner of a “trade secret” must show that the information derives independent economic value from not being generally known by others. Commercial vendors are, again by their very nature, generally known to others because they offer the same services to anyone in the general public who pays them. This information is neither a “trade secret” nor “proprietary,” nor has it ever been found to be in any Court in the land (making it no surprise that Respondent offers no legal support, arguments, memorandum, or precedent supporting it).
9. Nor is the identity of Respondent’s officers and shareholders and how to physically and electronically serve them, especially Mr. Messmer and Ms. Mary Maroadi who are already fact witnesses, “confidential.” *Black’s Law Dictionary* defines “confidential” as “[e]ntrusted with the confidence of another or with his secret affairs or purposes; intended to be held in confidence or kept secret.”³ The notion that a member of the Pennsylvania Bar would, in good faith, files a motion asking to keep the contact information of fact witnesses in civil litigation “secret” – the legal definition of “confidential” – is a frivolous motions practice because it has no legal foundation. As such, it is sanctionable by this Commission (and Respondent moves this Court sanction Respondent’s counsel as it deems fair and just here).
10. The limited production of documents that Respondent has made clearly shows that counsel selectively chose only certain emails from threads (in once case providing only one of five pages), and redacted the names of senders and recipients. Therefore, the only honest way to get the production after such game-playing by Respondent and its counsel is to subpoena the

³ *Black’s Law Dictionary*, 2nd Ed.

records from their ISP and custodian. These very records demonstrate whether or not Respondent violated statutes as alleged, the nature of the work provided and their roles in it, what they knew about the injuries and when, what actions they took or didn't take, etc. – factual issues this Commission is attempting to discern in the planned evidentiary hearing.

11. Finally, it is outside the bounds of acceptable behavior by an officer of the Court that three days after this Court DENIED Respondent's objections and announced its intent by interim order to schedule an evidentiary hearing that Respondent and its counsel would be so intransigent as to continue to invent excuses to evade discovery of facts and evidence, including by frivolously moving for defenses in contravention of all legal foundation. It is well-established in Pennsylvania that unless and until the Respondent moves for and successfully secures a protective order that the Respondent is not shielded from discovery.
12. The Respondent is not so much objecting to the questions; it objects to the answers because they are afraid they evince their guilt and liability here, and in the forthcoming federal civil suit, and seek to avoid detection and accountability. Rules exist for a reason; to create a level playing field. Respondent must follow the rules of discovery and be held accountable by this Commission, and soon the Federal District Court, as its behavior requires.

VERIFICATION

I, Scott Luellen, 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 to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904.

/s/ _____
Scott Luellen
14 Marlboro Street
Belmont, MA 02478
Tel. 412-915-7468
E-mail: SEricLuellen@gmail.com

Wednesday, July 13, 2016
Date:

CERTIFICATE OF SERVICE

I, Scott Luellen, hereby certify that a true and correct copy of the foregoing motion was sent via pre-paid, first-class US Postal Service to John A. Pillar, Esq., Counsel for Respondent MAROADI, 150 Green Commons Drive, Pittsburgh, PA 15243 on or before Tuesday, the 14th day of July 2016.⁴

/s/ _____
Scott Luellen
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Belmont, MA 02478
Tel. 412-915-7468
E-mail: SEricLuellen@gmail.com

Wednesday, July 13, 2016
Date:

⁴ A courtesy copy was also sent to Mr. Pillar via his electronic mail address found on the pleadings (pillarlaw@verizon.net) and to the General Manager (JMessmer@maroadi.com) and owner (Mary@Maroadi.com) of MAROADI MOVING & STORAGE, Inc.