

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 FOR SANCTIONS
(18 Pa.C.S. § 4904)**

NOW COMES Complainant and moves this Court sanction Respondent and its counsel for knowingly falsifying answers to this Commission, and in support states:

1. In Complainant's First Request for Interrogatories, it asked the Respondent to identify its "applicable motor vehicle insurance **carrier** at the time of the cause of action arose, and any and all other insurance carriers" (at ¶ 4)[emphasis added].
2. On June 15, 2016, Respondent filed "Answers to Interrogatories Not Previously Objected To" [sic] with this Commission. Therein, at ¶ 6(a), they stated in relevant part that it "was insured by First Niagara at the time of the alleged injury to Complainant."
3. On Friday, June 24, 2016, the Motor Carrier enforcement division of this Commission personally confirmed via telephone to Complainant that the Respondent has never been insured by "First Niagara."
4. On Monday, June 27, 2016, Complainant learned from the US Department of Transportation Federal Motor Carrier Safety Administration that Respondent is not currently, and has never

been since 1981, insured by “First Niagara.” (A copy of Respondent’s current insurance coverage, and coverage history since 1981, tracked by the Federal Motor Carrier Safety Administration (FMCSA) was attached to Complainant’s First Motion for Sanctions as Exhibit A and included by reference here).

5. James Messmer, General Manager of the Respondent, signed the interrogatory answers under a verification at page five (5) and violated, as described herein, 18 Pa.C.S. § 4904. Therefore, on June 29, 2016, Complainant first moved for sanctions against Respondent for knowingly falsifying answers before this Commission in discovery.
6. On July 8, 2016, Respondent filed its “Reply [sic] to Complainant’s First Motion for Sanctions,” and therein, via counsel, stated in relevant part that “First Niagara is, in fact, Respondent’s insurance underwriter...¹” and that it was a complete oversight to omit the identity of its insurance carrier (it actually “accidentally omitted the identity of two insurance carriers).
7. Respondent is “spinning” its answer; it did not omit the correct information, it affirmatively misrepresented the identity of its carrier. Moreover, Respondent, in this answer to the first sanctions motion, repeats the falsification it made answering interrogatories with only slight modification by claiming “First Niagara” is its insurance “underwriter” instead of “carrier.”
8. On July 13, 2016, Complainant confirmed in writing with W. Jeffrey Rohaly, Manager of the Property and Casualty Division of the Pennsylvania Insurance Department, Bureau of Consumer Services that “First Niagara” is not, and never has been, a licensed insurance

¹ Respondent’s counsel also misrepresented to this Commission on page 2 of its “Reply” to the first motion for sanctions that preliminary objections were still awaiting disposition on July 8, 2016 when, in fact, the Court had DENIED them three days earlier. The pattern is clear; neither the Respondent nor its counsel are worthy of credibility before this Commission because they chronically fail to investigate the veracity of their claims before filing them at best, and knowingly falsify them in violation of the law at worst, as a pattern of behavior now.

underwriter or carrier the Commonwealth of Pennsylvania. Instead, First Niagara is a re-seller agency; it cannot underwrite insurance because it's not an insurance carrier.²

9. This Commission must be incredulous that this Respondent, after identifying its insurance carriers to this Commission and the US Department of Transportation for 20 years, would suddenly “forget” who its insurance carriers were, and when directly asked in discovery, make an affirmative misrepresentation twice over, and omit both actual carriers. Moreover, it misidentified them by substituting the name of a company that has never been listed with this Commission, never been listed by the DOT, and is not even licensed to underwrite or carry insurance in the Commonwealth.
10. At best, Respondent's behavior shows a reckless indifference to making any reasonable investigation or effort to provide Complainant and this Commission with accurate and timely information in a legal proceeding, something that, ironically, the formal complaint is also accusing them of. At worst, Respondent's behavior shows an intransigent pattern of trying to evade legal discovery and, now **repeatedly** making knowing falsifications to litigants and state officials (this Commission). In fact, because he is a member of Pennsylvania's Bar Association, Respondent's counsel is required to investigate factual matters to ensure its defense is not frivolous to comply with the association's code of conduct, which clearly Mr. Pillar has made no effort to do in this case, now multiple times.

² Complainant asks that, because these registries are maintained by the Commonwealth as brethren of this Commission, that it take judicial notice of the referenced records evincing that “First Niagara” is not now, and never has been, a carrier of Respondent, nor is it authorized to underwrite or carry insurance by the Commonwealth.

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 14, 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 2016.³

/s/ _____

Scott Luellen

14 Marlboro Street

Belmont, MA 02478

Tel. 412-915-7468

E-mail: SEricLuellen@gmail.com

Wednesday, July 14, 2016

Date:

³ 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.