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**ORIGINAL**

John A. Pillar  
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January 10, 2007

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Re: Pennsylvania Public Utility Commission,  
Bureau of Transportation and Safety v.  
TR Trucking & Excavating, Inc.  
Docket A-117548C0601  
File No. 3248

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

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2007 JAN 12 PM 1:02  
SECRETARY'S OFFICE

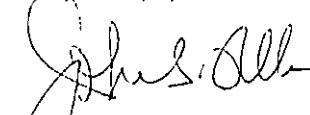
Dear Mr. McNulty:

A-00117548C0601

Enclosed for filing are the original and three copies of Answer to Complaint on behalf of TR Trucking & Excavating, Inc. in connection with the above docketed proceeding.

Please acknowledge receipt of the enclosures on the duplicate of this letter of transmittal enclosed and return it in the stamped, self-addressed envelope provided.

Very truly yours,

  
JOHN A. PILLAR

**DOCUMENT  
FOLDER**

sw

Enclosures

cc: Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement Division (w/encl)  
TR Trucking & Excavating, Inc. (w/encl.)

Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY OF REVENUE

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PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION, BUREAU OF )  
TRANSPORTATION AND SAFETY ) Docket A-117548C0601  
 )  
v. )  
 )  
TR TRUCKING & EXCAVATING, INC. )

**DOCUMENT  
FOLDER**

ANSWER TO COMPLAINT

AND NOW COMES, TR Trucking & Excavating, Inc., by and through its attorney, John A. Pillar, and answers the Complaint filed at the above docket number as follows.

1. The averments of paragraph 1 of the Complaint are admitted.
2. The averments of paragraph 2 of the Complaint are admitted.
3. Respondent admits that a safety audit was performed, but it is denied that said audit was performed on 9/7/06 as stated in paragraph 3 of the Complaint. Respondent admits in part, denies in part, or denies averments due to lack of specific knowledge in part, of the remaining averments of paragraph 3 as follows.

- (a) Admitted.
- (b) Admitted. By way of further answer, the precondition to the driver's required return to duty test, release by a Substance Abuse Professional, had not been received.
- (c) The averments of (c) are denied as alleged.
- (d) The averments are denied to the extent that it is averred that Respondent permitted conduct that is an alleged violation.

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JAN 18 2007

- (e) The averments of (e) are not admitted as stated since it is believed that none of the persons named drove on the dates stated.
- (f) It is admitted that Randall Kildow had an accident on March 16, 2005 in which there was a fatality and it is admitted that no post-accident drug test was performed. It is denied that Respondent failed to ensure that a post-accident test was performed or that documentation of same was possible.
- (g) Admitted to the extent that Mark Dobrick was permitted to drive on the dates indicated. The remaining averments constitute a legal argument to which no factual reply is possible.
- (h) The averments of (h) are denied as stated in that Driver Stevey had been medically examined and certified.
- (i) The averments of (i) are denied as stated in that Driver Kealey had been medically examined and certified.
- (j) The averments of (j) are denied as stated; Respondent maintained records relating to collection process.
- (k) It is admitted that Respondent was unaware of the necessity of an accident register; it is denied that Respondent failed to have a record of a fatality involving Driver Kildow.
- (l) Admitted
- (m) Admitted.

4. The averments of paragraph 4 of the Complaint state a legal conclusion to which no factual reply is necessary. However, Respondent denies the conclusion stated in paragraph 4 in that the penalty assessed is incorrect, improperly applied or calculated and excessive or unreasonable under the circumstances.

5. The averments of paragraph 5 of the Complaint state a legal conclusion to which no factual reply is necessary. However, Respondent denies the conclusion stated in paragraph 5 in that the penalty assessed is

incorrect, improperly applied or calculated and excessive or unreasonable under the circumstances.

6. The averments of paragraph 6 of the Complaint state a legal conclusion to which no factual reply is necessary. However, Respondent denies the conclusion stated in paragraph 6 in that the penalty assessed is incorrect, improperly applied or calculated and excessive or unreasonable under the circumstances.

7. The averments of paragraph 7 of the Complaint state a legal conclusion to which no factual reply is necessary. However, Respondent denies the conclusion stated in paragraph 7 in that the penalty assessed is incorrect, improperly applied or calculated and excessive or unreasonable under the circumstances.

8. The averments of paragraph 8 of the Complaint state a legal conclusion to which no factual reply is necessary. However, Respondent denies the conclusion stated in paragraph 8 in that the penalty assessed is incorrect, improperly applied or calculated and excessive or unreasonable under the circumstances.

9. The averments of paragraph 9 of the Complaint state a legal conclusion to which no factual reply is necessary. However, Respondent denies the conclusion stated in paragraph 9 in that the penalty assessed is incorrect, improperly applied or calculated and excessive or unreasonable under the circumstances.

10. The averments of paragraph 10 of the Complaint state a legal conclusion to which no factual reply is necessary. However, Respondent denies the conclusion stated in paragraph 10 in that the penalty assessed is incorrect, improperly applied or calculated and excessive or unreasonable under the circumstances.

11. The averments of paragraph 11 of the Complaint state a legal conclusion to which no factual reply is necessary. However, Respondent denies the conclusion stated in paragraph 11 in that the penalty assessed is incorrect, improperly applied or calculated and excessive or unreasonable under the circumstances.

12. The averments of paragraph 12 of the Complaint constitute a legal conclusion to which no factual response is required.

13. The averments of paragraph 13 of the Complaint constitute a legal conclusion to which no factual response is required.

14. The averments of paragraph 14 of the Complaint constitute a legal conclusion to which no factual response is required.

15. The averments of paragraph 15 of the Complaint constitute a legal conclusion to which no factual response is required.

16. The averments of paragraph 16 of the Complaint constitute a legal conclusion to which no factual response is required.

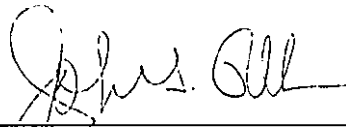
NOW, THEREFORE,, Respondent submits: (1) that the Bureau of Transportation and Safety's Prosecutory Staff's request that the Commission

impose a penalty of \$462,700 is so unreasonable, improper and excessive as to constitute an abuse of process and warrants dismissal of the Complaint; (2) that the penalty demanded by the Bureau of Transportation and Safety bears no reasonable relationship to the severity of the violations alleged; (3) that the penalty demanded, if imposed, would constitute, in effect, an unlawful taking of all of the assets of Respondent without due process; (4) that the Complaint fails to properly cite and/or apply regulations stated to be or which are applicable to the facts alleged; and (5) that certain facts alleged are either untrue or, where accurate, fail to state a basis for the relief requested.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed.

Respectfully submitted,

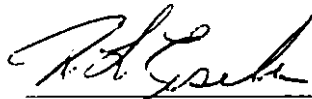
Date: Jan 10, 2007

  
\_\_\_\_\_  
JOHN A. PILLAR  
Attorney for  
TRUCKING & EXCAVATING, INC.,  
Respondent

VERIFICATION

I verify that the statements made in the foregoing **Answer to Complaint** are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 1, 9, 2007



RICHARD EISELE

Title: President / Owner.