



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

IN REPLY PLEASE
REFER TO OUR FILE

October 3, 2016

Rosemary Chiavetta
Pa. Public Utility Commission
2nd Floor, 400 North Street
P.O. Box 3265
Harrisburg, PA 17105

Re: Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement
v. Tengiz Kalandadze t/a Philadelphia Limo; Docket No. C-2015-2458845

Dear Secretary Chiavetta:

Enclosed for filing is the Motion for Sanctions of the Bureau of Investigation and Enforcement against Tengiz Kalandadze t/a Philadelphia Limo for refusing to respond to discovery requests in the above-referenced proceeding.

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

Very truly yours,

Heidi L. Wushinske
Senior Prosecutor
Attorney ID No. 93792

Encl.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2015-2458845
	:	
Tengiz Kalandadze t/a	:	
Philadelphia Limo,	:	
Respondent	:	

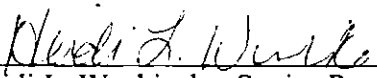
NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.371, you are hereby notified that if you do not file a written response to the enclosed Motion for Sanctions within five (5) days from service of this notice, the facts set forth in the Motion will be deemed to be admitted and the Pennsylvania Public Utility Commission (Commission) may rule on this Motion without further input.

All pleadings, such as answers to motions, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

You must also serve a copy of your response on the undersigned prosecutor.



Heidi L. Wushinske, Senior Prosecutor
PA Attorney ID No. 93792

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

Dated: October 3, 2016

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Tengiz Kalandadze t/a :
Philadelphia Limo, :
Respondent, :

**MOTION FOR SANCTIONS OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO THE HONORABLE PRESIDING ADMINISTRATIVE LAW JUDGE:¹

The Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission), Complainant in the above-docketed matter, by and through its prosecuting attorneys, and pursuant to 52 Pa. Code §§ 5.371-5.372, hereby files this Motion for Sanctions against Tengiz Kalandadze t/a Philadelphia Limo (Respondent or Philadelphia Limo), due to Respondent's failure to provide answers to discovery requests pursuant the Commission's regulations. 52 Pa. Code § 5.342. I&E contends that the remedy requested herein is not only just but also necessary in light of Respondent's refusal to provide information relevant to the facts at issue in this case. In support thereof, I&E avers as follows:

¹ As of the date of filing, the Office of Administrative Law Judge has not yet assigned a presiding officer to this matter.

I. BACKGROUND

1. On February 24, 2015, I&E filed a Formal Complaint (Complaint) against Philadelphia Limo alleging, *inter alia*, that Philadelphia Limo permitted its vehicles to be operated while its insurance coverage had lapsed. The Complaint seeks civil penalties in the amount of \$5,000 and cancellation of Respondent's certificate of public convenience.

2. Philadelphia Limo filed an Answer to the Complaint on April 17, 2015.

3. In its Answer, Philadelphia Limo alleged that despite the trips in question appearing on its trip sheets, it did not perform these trips, but referred them to other carriers.

4. On August 30, 2016, I&E propounded Interrogatories and Requests for Production of Documents – Set I (I&E Set I) upon Philadelphia Limo in this proceeding. I&E's Interrogatories requested information regarding the names, certificate numbers, and contact information for the carriers to whom the trips in question were allegedly referred. I&E also sought information regarding the customers who took the trips in question. Further, I&E requested the production of documents to substantiate the referrals that Philadelphia Limo alleges it made for the trips at issue in I&E's Complaint.

5. Pursuant to the Commission's regulations, if Philadelphia Limo objected to I&E's discovery, it was required to file objections within 10 days of service of the interrogatories. 52 Pa. Code § 5.342(e).

6. Philadelphia Limo's objections to I&E Set I would have been due no later than September 12, 2016.

7. Philadelphia Limo did not file objections to I&E Set I.

8. The Commission's regulations require answers to interrogatories to be filed within 20 days after service of the interrogatories. 52 Pa. Code § 5.342(d).

9. Philadelphia Limo's answers to I&E Set I were due no later than September 22, 2016.

10. Philadelphia Limo did not provide answers to I&E Set I by September 22, 2016.

11. Philadelphia Limo's failure to provide timely objections or discovery responses impedes I&E's ability to properly prepare for the hearing in this matter.

II. MOTION FOR SANCTIONS

12. The Commission's regulations at Sections 5.371 and 5.372, 52 Pa. Code §§ 5.371-5.372, address the consequences of a failure to comply with the Commission's regulations regarding discovery. Section 5.371(a) provides:

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A participant fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

52 Pa. Code § 5.371(a)(1).

13. Section 5.372 provides that the Presiding Officer may impose appropriate sanctions upon a party found to be in violation of the obligations set forth in the Commission's regulations. 52 Pa. Code § 5.372.

14. As noted above, Philadelphia Limo has refused to comply with the

Commission's regulations pertaining to discovery, in that Philadelphia Limo neither objected nor provided *any* responses to I&E's Interrogatories and Requests for Production of Documents – Set I. Accordingly, pursuant to Sections 5.371 and 5.372, sanctions are appropriate.

15. Section 5.372(a)(2) of the Commission's regulations, 52 Pa. Code § 5.372(a)(2), provides that a presiding officer may enter an order "refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing in evidence designated documents, things or testimony."

16. Section 5.372(a)(4) of the Commission's regulations, 52 Pa. Code § 5.372(a)(4), provides that a presiding officer may make "an order with regard to the failure to make discovery as is just."

17. Accordingly, I&E proposes that the administrative law judge (ALJ) assigned to be the presiding officer in this matter order the following sanctions:

- (a) Prohibit Philadelphia Limo from asserting any claims or defenses that another carrier performed the trips at issue in I&E's Complaint at Docket No. C-2015-2458845; and
- (b) any other sanction that the presiding ALJ deems appropriate.

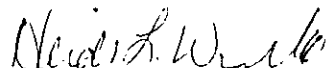
18. I&E also requests that Philadelphia Limo be directed to immediately provide the outstanding responses to I&E's Interrogatories and Requests for Production of Documents – Set I to I&E and report to the presiding ALJ, in writing, when it provides such responses. Because of Philadelphia Limo's refusal to respond to I&E's Set I, I&E

has been deprived of information that it is entitled to know regarding Philadelphia Limo's alleged defenses.

III. CONCLUSION

WHEREFORE, the Bureau of Investigation and Enforcement respectfully requests, as a result of Respondent's total refusal to respond to I&E's discovery requests, that the presiding ALJ issue an order imposing the following sanctions: (a) prohibit Philadelphia Limo from asserting any claims or defenses that another carrier performed the trips at issue in I&E's Complaint at Docket No. C-2015-2458845; and (b) impose any other sanction(s) that the presiding ALJ deems appropriate.

Respectfully submitted,


Heidi L. Wushinske
Senior Prosecutor
PA Attorney ID No. 93792

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

Pennsylvania Public Utility Commission
Bureau of Investigation & Enforcement
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hwushinske@pa.gov

Dated: October 3, 2016

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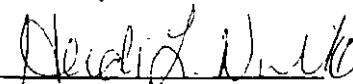
Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement :
v. : Docket No. C-2015-2458845
Tengiz Kalandadze t/a :
Philadelphia Limo :

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 (relating to service by a party).

Service by First Class Mail:

Tengiz Kalandaze,
T/A Philadelphia Limo
839 Selmer Road
Philadelphia, PA 19116


Heidi L. Wushinske
Senior Prosecutor
Attorney ID #93972

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 214-9594

Dated: October 3, 2016

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