



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

IN REPLY PLEASE  
REFER TO OUR FILE

November 23, 2016

Rosemary Chiavetta  
Pa. Public Utility Commission  
2<sup>nd</sup> 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 Second 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  
PA Attorney ID No. 93792

Encl.

SECRETARY'S BUREAU  
PA PUC

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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SECRETARY'S BUREAU

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

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

TO THE HONORABLE ANGELA T. JONES:

Pursuant to the Order issued by Administrative Law Judge Angela T. Jones (ALJ Jones) on November 7, 2016, 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 Second 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 and as directed by ALJ Jones's November 7, 2016 Order. 52 Pa. Code § 5.342; *Order Granting In Part Motion for Sanctions*, Docket No. C-2015-2458845 (hereinafter Order). 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:

## **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. On October 3, 2016, I&E filed a Motion for Sanctions (Motion) requesting that Philadelphia Limo be prohibiting from asserting any claims or defenses that another carrier performed the trips at issue in I&E's Complaint. Motion at 4, ¶17.

12. In its Motion, I&E also requested that ALJ Jones direct Philadelphia Limo to respond to the interrogatories and requests for production of documents and report in writing to ALJ Jones when it provided such responses. Motion at 4, ¶18.

13. In her Order dated November 7, 2016 (Order), ALJ Jones directed Philadelphia Limo to answer the outstanding discovery propounded by I&E Set I no later than close of business on November 14, 2016. Order at 6.

14. ALJ Jones informed Philadelphia Limo that if it failed to provide timely and sufficient answers to I&E's interrogatories and requests for production of documents, she would entertain a motion from I&E to prohibit Philadelphia Limo from providing evidence to support a finding that carriers and trips were allegedly referred by Respondent during the lapse of insurance coverage. Order at 6.

15. Philadelphia Limo failed to comply with ALJ Jones's Order and did not provide answers to I&E's interrogatories and requests for production of documents by November 14, 2016.

16. Moreover, to date, Philadelphia Limo continues to ignore ALJ Jones's Order and has not provided answers to I&E's interrogatories and requests for production of documents.

17. 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**

18. 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).

19. 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.

20. 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, even after Your Honor ordered it to do so. Accordingly, pursuant to Sections 5.371 and 5.372, sanctions are appropriate.

21. 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."

22. 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."


23. Accordingly, I&E proposes that Your Honor 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 Your Honor deems appropriate.

### 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 in violation of the Order dated November 7, 2016, that the Honorable Angela T. Jones issue a second 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 Your Honor deems appropriate, including granting summary judgment pursuant to 52 Pa. Code § 5.102.

Respectfully submitted,

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

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

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Dated: November 23, 2016

Pennsylvania Public Utility Commission, :  
Bureau of Investigation and Enforcement :

v. :

Docket No. C-2015-2458845

Tengiz Kalandadze t/a :  
Philadelphia Limo :

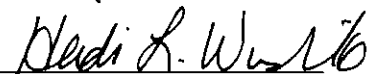
**CERTIFICATE OF SERVICE**

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

The Honorable Angela T. Jones  
Pennsylvania Public Utility Commission  
801 Market Street  
Philadelphia, PA 19107

  
Heidi L. Wushinske  
Senior Prosecutor  
PA Attorney ID No. 93972

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
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Dated: November 23, 2016

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