

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2024-3049873
	:	
J J Serafin, Inc. t/a AAAA Limo &	:	
AAAA Transit	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Formal Complaint filed by the Commission’s Bureau of Investigation and Enforcement, alleging the Respondent operated a vehicle for compensation, in call or demand service, without a Certificate of Public Convenience or authority and imposes a civil penalty of \$5,410.00.

HISTORY OF THE PROCEEDING

On July 1, 2024, the Commission’s Bureau of Investigation and Enforcement (I&E or Complainant) filed a Formal Complaint (Complaint) against J J Serafin Inc. t/a AAAA Limo & AAAA Transit (Respondent or J J Serafin) with the Pennsylvania Public Utility Commission (Commission). I&E alleges J J Serafin operated

a vehicle for the purpose of transporting passengers for compensation, in call or demand service, within the Commonwealth of Pennsylvania without a Certificate of Public Convenience or authority from the Commission, in violation of 66 Pa.C.S. § 1101. I&E requested: (1) the Respondent be ordered to cease and desist providing public utility service as a common carrier of persons by motor vehicle for compensation until such time as it obtains a Certificate of Public Convenience pursuant to Section 1101 of the Code, 66 Pa.C.S. § 1101; (2) the Respondent be ordered to pay a civil penalty in the amount of Twelve Thousand Five Hundred Dollars (\$12,500); and (3) the Commission grant such other relief as the Commission deems appropriate.

On July 22, 2024, the Respondent filed Answer with New Matter (Answer) along with a Notice to Plead. In its Answer, the Respondent admitted in part and denied in part various material allegations of the Complaint. In its New Matter, J J Serafin averred that since March 12, 2024, it ceased all transportation operations within points in Pennsylvania under the Commission's jurisdiction. J J Serafin further averred that the alleged intrastate service between July 12, 2023, and March 12, 2024, was undertaken in connection with a work release program established and run by Luzerne County and as a third-party providing transportation pursuant to a program established and operated by a municipality, such intrastate service is not within the Commission's jurisdiction. J J Serafin requested that the Complaint be dismissed.

On August 1, 2024, I&E filed a Reply to New Matter admitting in part and denying in part various material allegations of the New Matter. Specifically, I&E denied that the Respondent's intrastate trips between July 11, 2023, and March 12, 2024, were limited to a work release program established and run by Luzerne County.

By Hearing Notice dated August 12, 2024, an Initial Call-In Telephonic Hearing was scheduled for October 16, 2024, and the matter was assigned to me.

On September 12, 2024, I issued a Prehearing Order advising the parties of the date and time of the scheduled hearing and informing them of the procedures applicable to this proceeding.

On September 24, 2024, a Withdrawal of Appearance of Todd S. Stewart and Phillip D. Demanchick Jr. on behalf of J J Serafin was filed with the Commission.

On October 16, 2024, the hearing convened as scheduled. The individual appearing on behalf of J J Serafin was not an attorney and therefore unable to participate. Grant Rosul, Esquire, appeared on behalf of I&E and presented the testimony of one witness, Motor Carrier Enforcement Officer Neal Ebbert. Officer Ebbert sponsored three exhibits, which were admitted into the record without objection.

The record closed on October 31, 2024, upon the filing of the transcript with the Commission.

FINDINGS OF FACT

1. The Complainant is the Commission's Bureau of Investigation and Enforcement, to which the Commission delegated authority to initiate prosecutions, such as in this case.

2. The Respondent is J J Serafin Inc. t/a AAAA Limo & AAAA Transit, who has a principal place of business at 14 Dennison Street, Forty Fort, PA 18704. I&E Exhibit 1.

3. On July 11, 2023, the Respondent's Certificate of Public Convenience issued at Docket No. A-00110791, F.1, F.2 was cancelled for non-

compliance with the insurance requirements set forth in 66 Pa.C.S. § 512. Tr. 10, I&E Exhibit 3.

4. On November 2, 2023, I&E received a complaint that “AAAA Limo” was “operating without authority for the past few months” and that Respondent does “contract work for the Luzerne County Correctional facility.” I&E Exhibit 1.

5. On December 22, 2023, Officer Neal Ebbert of the Commission’s Motor Carrier Enforcement spoke with Scott Serafin, a manager of J J Serafin, over the phone, wherein Mr. Serafin admitted to making intrastate trips. Tr. 10.

6. On December 27, 2023, Officer Ebbert visited J J Serafin at its office address in Forty Fort, Pennsylvania, where he reviewed Respondent’s paperwork. Tr. 10.

7. Upon review of the Respondent’s paperwork, Officer Ebbert concluded that the Respondent was making daily intrastate trips from the Luzerne County Correctional facility to two separate businesses, located in Berwick, Pennsylvania, and Nescopeck, Pennsylvania, respectively, weekly from November of 2023 through December 23, 2023. Tr. 10-11, I&E Exhibits 2, 3.

8. The Respondent received compensation for the aforementioned intrastate trips in the total amount of \$5,410.00. Tr. 11, I&E Exhibit 2.

9. The testimony of Officer Ebbert was accepted as credible.

10. On March 16, 2024, in response to a data request by I&E, the Respondent provided documentation that it was operating as a common carrier of persons

within Pennsylvania for compensation between July 11, 2023, and March 12, 2024.
Tr. 15, I&E Exhibit 3.

DISCUSSION

Burden of Proof

As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proving by substantial evidence it is entitled to the requested relief. 66 Pa.C.S. § 332(a); 2 Pa.C.S. §704. To satisfy this burden, Complainant must show Respondent is responsible or accountable for the problem described, by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than that evidence presented by the other party. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlt. 1990); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlt. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlt. 1993); 2 Pa.C.S. § 704. Furthermore, more evidence is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlt. 1984).

Applicable Law for Motor Carriers

Any individual or entity that proposes to offer, render, furnish or supply transportation service to the public, by operating a vehicle, in call or demand service, for compensation, first must obtain from the Commission a Certificate of Public

Convenience. 66 Pa.C.S. §§ 102, 1101-1103. The commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, the provisions, and the full intent thereof, of the Code. 66 Pa.C.S. § 501.

When a person violates any of the provisions covering motor carriers in the Pennsylvania Public Utility Law, such person shall forfeit and pay to the Commonwealth a sum not to exceed \$1,000. 66 Pa.C.S. § 3301(a). Each and every day's continuance of the violation of any regulation, requirement, determination or order of the commission shall be viewed as a separate and distinct offense. 66 Pa.C.S. § 3301(b). Any action for the recovery of a penalty and prosecution of violations of the motor carrier provisions of the Public Utility Code must be brought within three years from the date when the liability arose. 66 Pa.C.S § 3314(a).

Discussion under Motor Carrier provisions

In this case, through the credible testimony of I&E Officer Neal Ebbert and corroborating documentation, I find I&E presented substantial evidence that the Respondent made intrastate trips between July 11, 2023, and March 12, 2024, for compensation, without a Certificate of Public Convenience in violation of 66 Pa.C.S. §§ 102, 1101-1103.

Civil Penalty

As stated above, Sections 3301(a) and (b) of the Code, 66 Pa. C.S. §§ 3301 (a) and (b), authorize the Commission to impose a maximum civil penalty of \$1,000 per day for violations of its statutes, regulations and orders. In order to determine whether a fine is appropriate and what level of fine is most appropriate given the circumstances, the Commission employs specific factors and standards when a violation is found.

Under 52 Pa. Code § 69.1201, the following factors and standards are considered in evaluating whether a fine is appropriate:

(1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.

(2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.

(3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.

(4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.

(5) The number of customers affected and the duration of the violation.

(6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.

(7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.

(8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.

(9) Past Commission decisions in similar situations.

(10) Other relevant factors.

52 Pa. Code § 69.1201(c).

Here, I&E requested a civil penalty in the amount of \$12,500. However, I&E did not explain or provide any argument to support its prayer for the Commission to impose a penalty in this amount. There were no statements made in its Complaint, other filings or during the hearing to explain how I&E reached the \$12,500 penalty amount. I&E did not address any of the factors set forth in 52 Pa. Code § 69.1201, such as whether the conduct at issue was of a serious nature, the resulting consequences, intentionality, compliance history, remediation, deterrence amount, or prior Commission decisions under similar circumstances.

Accordingly, I must reach a determination as to the appropriate civil penalty based solely on the limited evidence presented. Based on this evidence, the Respondent operated without a Certificate of Public Convenience between July 11, 2023, and March 12, 2024 for a total of 245 days. Thus, pursuant to Sections 3301(a) and (b) of the Code, the Commission is authorized to impose a maximum civil penalty of \$245,000. I find this amount excessive under these circumstances. However, the Respondent's intentional conduct of operating without proper authority for this duration of time is of a serious nature and concern. At a bare minimum, the Respondent should

not be allowed to profit from operating without a Certificate of Public Convenience. In this regard, the evidence shows that the Respondent received a total \$5,410.00 during the period in question. *See* I&E Exhibit 2. Consequently, I find a civil penalty of \$5,410.00 is just and reasonable. *See* 52 Pa. Code § 69.1201. Further, approval of same is in the public interest. At this amount, the Respondent does not profit from ignoring the law and has a deterrent not to operate as a common carrier of persons, for the purpose of transportation, in call or demand service, without first obtaining a Certificate of Public Convenience from the Commission.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. §701.

2. The Public Utility Commission has the power, and the duty, to enforce the requirements of the Public Utility Code. 66 Pa.C.S. § 501.

3. The burden of proof in this proceeding is on the Bureau of Investigation and Enforcement. 66 Pa.C.S. § 332(a).

4. J J Serafin Inc. did not comply with the Public Utility Code when it made intrastate trips between July 11, 2023, and March 12, 2024, for compensation, without a Certificate of Public Convenience. 66 Pa.C.S. §§ 102, 1101-1103.

5. The Commission is authorized to consider and impose civil monetary penalties against a public utility, person or corporation that violates the Pennsylvania Public Utility Code. 66 Pa.C.S. § 3301; 52 Pa. Code § 69.1201.

6. The Public Utility Commission may impose a maximum civil penalty of \$1,000 per day for each separate violation of the Public Utility Code. 66 Pa.C.S. § 3301.

7. The civil penalty of \$5,410.00 against Respondent is appropriate under the Commission's Policy Statements and Guidelines. 52 Pa. Code §69.1201.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of the Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement, at Pennsylvania Public Utility Commission v. J J Serafin Inc. t/a AAAA Limo & AAAA Transit, Docket No. C-2024-3049873, is granted.

2. That within 30 days after entry of the Commission's Final Order in this case, J J Serafin Inc. t/a AAAA Limo & AAAA Transit, shall pay a civil penalty of Five Thousand Four Hundred Ten dollars (\$5,410.00) pursuant to Sections 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, by sending a certified check or money order,

made payable to the “Commonwealth of Pennsylvania” with the docket number of this proceeding listed to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

3. That J J Serafin Inc. t/a AAAA Limo & AAAA Transit shall cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. §§101–3316, and the regulations of this Commission, 52 Pa. Code §§1.1–1065.1.

4. That a copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Office of Administrative Services.

5. That the Bureau of Administrative Services, Assessment Section shall monitor this matter for compliance.

6. That, if J J Serafin Inc. t/a AAAA Limo & AAAA Transit fails to make the payment required by Ordering Paragraph No. 2 above, within 30 days of the entry date of the Commission’s Final Order, it is further ordered:

- a. That the Commission will send a copy of this Order to the Pennsylvania Department of Transportation for the suspension or revocation of vehicle registrations that were used under J J Serafin Inc. t/a AAAA Limo & AAAA’s operating authority; and

