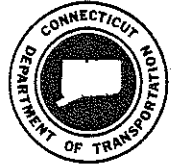


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**STATE OF CONNECTICUT**  
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546  
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DOCKET NUMBER 0702-C-28-L  
(Complaint No. LV02-0507-23)

RE: IN THE MATTER OF THE CITATION OF  
A+ TRANSPORTATION, LLC.

Final Decision

December 20, 2007

## I. INTRODUCTION

### A. General

By citation dated March 21, 2007, issued by the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes Section 13b-103, as amended, A+ Transportation, LLC (hereinafter "respondent"), holder of Livery Permit Number 2770, was ordered to come before the department to answer allegations made therein.

Pursuant to said citation, the respondent was directed to appear at the Newington office of the Department of Transportation to show cause why Permit Number 2770, for the operation of motor vehicles in livery service, should not be suspended or revoked or a civil penalty imposed for violation of its permit issued pursuant to Connecticut General Statutes Section 13b-103. It is alleged that the respondent failed to maintain insurance, in violation of General Statutes Section 14-29(a).

The citation was served upon the respondent by first class and certified mail and recited the department's reasons for issuing same.

### B. Hearing Held

Pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, the public hearing for this citation was held at the administrative offices of the department on May 10, 2007 and October 5, 2007.

Notice of the citation and of the hearing to be held thereon was given to the respondent and to such other parties as required by General Statutes Section 13b-103, as amended.

The hearing on this matter was conducted by a hearing officer designated by the Commissioner of Transportation, pursuant to Section 13b-17 of the General Statutes.

### C. Appearances

The respondent appeared through Sirage Malani, its owner, and was represented by Stuart M. Roth, Esquire of the law firm of Krevolin, Roth & Connors, LLC, Attorneys at Law, located at 433 South Main Street, Suite 303, West Hartford, Connecticut.

Eugene Morris, staff of the Regulatory and Compliance Unit of the Department of Transportation presented the evidence on behalf of the department.

## II. FINDINGS OF FACT

1. The respondent is holder of Livery Permit Number 2770 and is authorized to operate motor vehicles livery service to all points in Connecticut from a headquarters West Hartford.
2. On February 1, 2007 Inspector Eugene Morris, with the Regulatory and Compliance Unit of the department, learned from Department of Motor Vehicles officials that the respondent was operating without insurance coverage.
3. On November 2, 2006, the Department of Motor Vehicles sent to the respondent, at 505 Prospect Street, Thomaston, Connecticut, a notice indicating that the respondent's insurance issued by Liberty Mutual Insurance Company was to be cancelled by November 29, 2006. Agency Exhibit 4.
4. The notice of cancellation was sent to the 505 Prospect Street address because the insurance information listed the respondent's address as 505 Prospect Street in Thomaston. Exhibit AA, page 1.
5. The respondent's liability insurance with Liberty Mutual was cancelled on November 29, 2006.
6. On January 5, 2007, the Department of Motor Vehicles notified the respondent, by letter sent to 505 Prospect Street, Thomaston, Connecticut, that the respondent's registrations -- L5514L, L6728L, L6999L, L7002L, L7003L and L7004L -- would be revoked effective January 22, 2007 based on the Liberty Mutual Insurance Company's notice of cancellation. No return receipt was attached thereto. Agency Exhibit 6.
7. The respondent's registrations -- L7002L; L5515L; L7004L; L5514L; L6502L; L7087L; L6999L; L7003L; L7005L; L6895L; L6739L; and L6872L were cancelled on February 5, 2007 pursuant to order of the Department of Motor Vehicles. Agency Exhibit 5.
8. On February 2, 2007, West Hartford police went to the respondent's office and confiscated the plates that were uninsured.
9. The respondent contacted another insurance company on February 7, 2007 and resumed coverage on its vehicles.
10. The respondent was uninsured for 71 days -- from November 29, 2006 to February 7, 2007.

11. The records of the department show a mailing address of record and physical address of the respondent as 236 Park Road, West Hartford, Connecticut.

12. The carrier report indicates the respondent's address as 236 Park Road, West Hartford, Connecticut.

13. The respondent's application for insurance dated 2006 to 2007 shows the address of 505 Prospect Street, Thomaston on the first page and further shows the address of 236 Park Road, West Hartford on the Vehicle Schedule page. (Exhibit AA, page 9 of 13).

14. The respondent signed the original application of insurance with Liberty Mutual Insurance Company.

15. The respondent has a vehicle actually registered at the address of 505 Prospect Street, Thomaston, which was registered in October 2006 (Department Exhibit 11).

### III. DISCUSSION

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in livery service in the State of Connecticut accordance with Connecticut General Statutes Section 13b-102, as amended.

Pursuant to Connecticut General Statutes Section 13b-103 the department may amend, or for sufficient cause suspend or revoke any such permit. Further, the department may impose a civil penalty on any person who violates any provision of the governing chapter or any regulation adopted under Section 13b-102 through 13b-109, as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one thousand dollars per day for each violation.

The Regulatory and Compliance Unit of the department was notified by officials at the Department of Motor Vehicles that the respondent's insurance was to be cancelled, effective November 29, 2006, for failing to have its vehicles insured. The Department of Motor Vehicles notified the respondent that its marker plates would be cancelled if insurance coverage was not forthcoming.

These notices were sent to the respondent at 505 Prospect Street in Thomaston, because the respondent's address, as shown on the application of insurance, was 505 Prospect Street in Thomaston, Connecticut.

The respondent argues that its owner, Sirage Milani, did not know and received no notice that the insurance was cancelled. The respondent argues that its mailing/headquarters address of record is in West Hartford. However, the insurance notices and cancellation notices were sent to Thomaston. The respondent argues that the fault rests on the insurance company for sending the notices to the wrong address.

Milani testified that he would get his insurance notices from his agent and would pay the premiums to his agent. Milani testified that he was never advised that his livery vehicles were not covered by insurance or that he owed money to the insurance company. The respondent argues that failure to make payment of a premium for insurance under \$2000 was the result of a "simple" mistake and that the respondent took care of the problem on February 7, 2007 as expeditiously as possible after he was advised he had no insurance.

The evidence in the matter shows that the insurance application in question listed the respondent's address as 505 Prospect Street, Thomaston. Whether it was an inadvertent mistake or not, Milani is responsible for ensuring the information on the insurance application is correct, and certifies by his signature that the statements made in the application are true and correct. A permit holder cannot absolve himself of responsibility by arguing that the insurance agent put down the wrong information and thus, the respondent did not receive notice and should not be penalized for its violation.

The respondent's argument stems from the fact that the department records show that the respondent's headquarters and mailing address of record are listed as being in West Hartford. While this may be true, evidently the information relayed to the insurance company was incorrect. This argument is unpersuasive.

Notwithstanding the above, the evidence shows that the respondent had a vehicle registered at the Thomaston address, which was so registered in October 2006, showing that address was used for mailing purposes for that particular vehicle. Presumably, any Department of Motor Vehicles information to be sent to the company would be sent to that address, unless noted to be sent elsewhere. Agency Exhibit 11, the Department of Motor Vehicles report, shows the only address for that vehicle to be the Thomaston address. If Milani receives information at that address for another vehicle, then it would be reasonable to conclude that he received the respondent's other mail at that address.

The respondent did not have insurance coverage for 71 days. Considering that the fault may lie with both parties, the insurance company and the respondent, looking at the evidence in the most favorable light to the respondent, this hearing officer would conclude that the respondent is at least half responsible for the situation in which it finds itself. Because failure to

maintain insurance is vitally detrimental to the general public, a civil penalty will be assessed for failure to have insurance. Additionally, because the respondent is at least half at fault for its failure to have insurance, the respondent will be held liable for half of the days that the respondent failed to maintain insurance on its vehicles.

#### IV. CONCLUSIONS OF LAW

By a preponderance of the evidence, I find that the respondent failed to maintain insurance on its livery vehicles for a period of 71 days in violation of Connecticut General Statutes Section 14-29(a) and thereby violated the terms of Permit Number 2770, issued pursuant to Connecticut General Statutes Section 13b-103.

The department may impose a civil penalty on any person who violates any provision of the governing chapter or any regulation adopted under Section 13b-102 through 13b-109, as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one thousand dollars per day for each violation.

Based on the mitigating circumstances presented, such as the fact that Milani reinsured his vehicles within a day or two of the West Hartford police confiscating his plates and the fact that the respondent's record (as evidenced by Agency Exhibit 2) shows no citations from 1999 through 2006, the respondent will be assessed a civil penalty for a quarter of the days (17.75 days) that the respondent failed to have insurance coverage for its livery vehicles, at one hundred dollars per day.

#### V. ORDER

Therefore, the respondent is hereby ordered to pay to the Department of Transportation a civil penalty in the amount of One Thousand Seventy Five Dollars (\$1775), assessed at \$100 per day for 17.75 days, by certified check, bank check or money order made payable to the Treasurer, State of Connecticut," within forty-five (45) days from the date of the final decision.

Failure to comply with the above-order may result in suspension, revocation or a civil penalty.

This final decision constitutes notice in accordance with Connecticut General Statutes Section 4-182(c).

Dated at Newington, Connecticut on this 20<sup>th</sup> day of December 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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Laila A. Mandour  
Staff Attorney III  
Administrative Law Unit  
Bureau of Finance and Administration