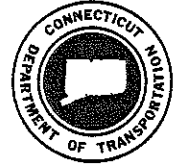




File

**STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION**



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DOCKET NUMBER 0705-C-55-HG

CORRECTED COPY

RE: IN THE MATTER OF THE CITATION OF JANESEN
PARTNERS D.B.A. A & A MOVERS.

Final Decision

July 8, 2008

I. INTRODUCTION

A. General

By citation dated April 15, 2008, by the Department of Transportation (hereinafter "Department"), pursuant to Connecticut General Statutes Section 13b-407, as amended, Janesen Partners d.b.a. A & A Movers (hereinafter "respondent"), holder of Certificate Number 1375, was ordered to come before the Department to answer the 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 Certificate Number 1375, issued for the operation of a household goods motor carrier, should not be suspended or revoked or a civil penalty imposed for violation of its household certificate pursuant to the Regulations of Connecticut State Agencies Sections 13b-410.

More specifically, it is alleged that on December 31, 2006, the certificate holder failed to file a 2007 annual intrastate permit fee for each vehicle that such household goods motor carrier operated under authority of the Connecticut Department of Transportation in violation of Connecticut General Statutes Section 13b-410.

The citation was served upon the respondent at 199 Adams Street, Manchester, Connecticut 06040 by first class and certified mail and recited the Department's reasons for issuing it. However, the respondent's legal mailing address of record is 196 Newberry Road, South Windsor, Connecticut 06074.

B. Hearing Held

Pursuant to Section 13b-387 of the Connecticut General Statutes, as amended, the public hearing for this citation was held on May 15, 2008.

Notice of the citation and the hearing to be held thereon was given to the respondent and to such other parties as required by Connecticut General Statutes Section 13b-410, 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 Connecticut General Statutes.

C. Appearances

Robert Waldron appeared on behalf of the respondent, Janesen Partners d.b.a. A & A Movers. The respondent was represented by Michael Kenny with a mailing address of One Goodwin Square, 225 Asylum Street, Hartford, Connecticut 06103.

Eugene Morris, Public Transportation Transit Inspector, acted as a case presenter in this matter.

Sheldon Lubin, a Department staff member, acted as a witness in this matter.

II. FINDINGS OF FACT

1. The respondent is the holder of Certificate Number 1375 in the name of Janesen Partners d.b.a. A & A Movers and has been authorized to operate as a household goods motor carrier from a headquarters in Manchester since 1999.

2. On October 26, 2006, Mr. Lubin sent out annual permit applications to all of the registered household goods carriers. This application requires an annual payment of \$17.50 for each vehicle operated under the permit.

3. The respondent's legal mailing address of record is 196 Newberry Road, South Windsor, Connecticut 06074. The respondent's physical address of record is 199 Adams Street, Manchester, Connecticut 06040.

4. For some unknown reason, the respondent ended up with a 2006 permit application addressed to AA Metro Moving & Storage located in Bridgeport, Connecticut.

5. Some time after December 31, 2007, the respondent and Mr. Lubin got into a heated argument on the phone in which Mr. Waldron stated that he was threatened by Mr. Lubin with a three year audit if he did not refund a fuel surcharge for one customer who had filed a complaint with the Department. Mr. Waldron then decided not to file any paperwork with the Department as a result of this conversation.

6. Mr. Waldron testified that he considered operating illegally so that the Department could not audit him and make him refund any money from the fuel surcharge.

7. After the heated discussion with Mr. Waldron, Mr. Lubin faxed and mailed him another 2007 application for permits which Mr. Waldron declined to address.

8. The respondent has no past citation history.

III. DEPARTMENT ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to Connecticut General Statutes Section 13b-410, 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-389 as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one hundred dollars per day for each violation.

On October 24, 2006, Mr. Lubin mailed an annual permit application to the respondent. Mr. Waldron testified that he received the permit application for AA Movers in Bridgeport. The respondent never mailed the 2007 application or payment. Subsequently, Mr. Lubin contacted Mr. Waldron by phone and they engaged in a heated conversation about the failure to mail the permit application with the payment and a fuel surcharge refund. Mr. Waldron claims that Mr. Lubin threatened to audit him for the past three years by stating that if Mr. Waldron did not refund a particular customer's fuel surcharge, he would have to audit his files for three years looking for other fuel surcharge refunds that may be due to customers. Mr. Waldron claims he was very concerned about this threat so he decided not to take any action on the permit application.

Mr. Waldron had been in business since 1999 and knew that his company was required to file an annual permit application and payment. Mr. Waldron is also the vice-president of the Motor Transport Association and was fully aware of his company's responsibilities with regard to the permits and he knowingly chose to disregard the law.

Mr. Waldron explained that he thought it was safer not to file the permit application because to do so may subject him to a fuel surcharge audit. Mr. Waldron claims that since he felt threatened, he thought it best to decline from filing the application for fear that he may have further problems with the Department. He has, by his failure to address this issue, subjected his company to over \$50,000 worth of fines (\$100 a day for 501 days). Equally troubling are Mr. Waldron's comments that he was thinking about becoming an illegal household goods moving company so he could not be regulated by the Department.

While it was clearly not right for Mr. Lubin to have threatened Mr. Waldron with an audit, Mr. Waldron's response to not file a permit application was also wrong. Since Mr. Waldron knowingly disregarded the statutes and failed to file a 2007 permit application, he will be assessed a civil penalty of \$500. In the future, if Mr. Waldron feels he has an issue which cannot be resolved with Department staff, a better course of action would be to address the employee's supervisor instead of putting his permit at risk.

To correct this situation, Mr. Waldron will be required to remit a \$500 civil penalty, along with filing the 2007 permit application and pay the 2007 permit fee of \$52.50 for the three vehicles he was operating at the time. The respondent is also ordered to file its 2008 permit application and the 2008 permit fee of \$52.50 which is also due. Both the 2007 and 2008 permit applications and fees must be submitted to the Department before it accepts payment of the \$500 civil penalty.

IV. ORDER

Based on the above, the respondent is hereby ordered to pay to the Department of Transportation a civil penalty in the amount of **FIVE HUNDRED DOLLARS (\$500)**, by certified check, bank check or money order made payable to the "Treasurer, State of Connecticut" within thirty (30) days from the date of the final decision.

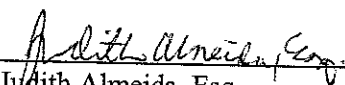
The respondent is ordered to file both a 2007 permit application with a check for \$52.50 and a 2008 permit application with a check for \$52.50 before Department accepts its \$500 civil penalty payment.

Failure of the respondent to comply with this order will result in the revocation of Certificate Number 1375 without further proceeding.

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

Dated at Newington, Connecticut on this 8th day of July 2008.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida, Esq.
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration