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STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone:

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DOCKET NUMBER 0701-C-22-L

RE: IN THE MATTER OF THE CITATION OF CARRIAGE LIMOUSINE  
SERVICE, INC.

Final Decision

December 17, 2007

## I. INTRODUCTION

### A. General

By citation dated July 25, 2007, by the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes Section 13b-103, as amended, Carriage Limousine Service, Inc. (hereinafter "respondent"), holder of Livery Permit Number 2343, 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 Livery Permit Number 2343, issued for the operation of livery service, should not be suspended or revoked or a civil penalty imposed for violation of its certificate issued pursuant to Connecticut General Statutes Section 13b-103, et seq.

More specifically, it is alleged that on or about May 13, 2006, a driver for Carriage Limousine Service, Inc. operated a motor vehicle bearing Connecticut marker plate number 5006 in intrastate livery service without the proper license endorsement in violation of Connecticut General Statutes Section 14-163c-1-2.

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

### B. Hearing Held

Pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, the public hearing for this citation was held on December 4, 2007. This hearing was originally scheduled for May 22, 2007 but the respondent failed to appear on that date and later petitioned to reopen the hearing.

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-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 Connecticut General Statutes

### C. Appearances

Alexander Lerz appeared at the hearing on behalf of the respondent. The respondent was represented by Eric Emanuelson, Esq. with a mailing address of P.O. Box 364, 1575 Boston Post Road, Connecticut 06437.

Robert Colucci, Supervising Investigator with the Regulatory and Compliance Unit, acted as a witness in this matter.

Wayne Sinclair, a staff member with the Department, presented the case in this matter.

## II. FINDINGS OF FACT

1. The respondent is the holder of Livery Permit Number 2343 in the name of Carriage Limousine Service, Inc and is authorized to operate motor vehicles in livery service from a headquarters in Oxford.

2. On March 29, 2006 the Department of Motor Vehicles issued a statement to companies that operate taxicab or livery service concerning the required license endorsements for drivers. The statement said that new licensing requirements took effect after January 9, 2006.

3. On May 13, 2006, a driver for Carriage Limousine Service, Inc. operated a motor vehicle bearing Connecticut marker plate number 5006 in intrastate livery service with a T endorsement and a T restriction on his driver's license.

4. When the respondent hired driver Paul McCluskey in May 2004, he had been a livery and bus driver for several years.

5. The respondent performed an independent driving record check on Mr. McCluskey with American Driving Records, Inc. prior to hiring him.

6. Mr. McCluskey originally had a T and P endorsement and I restriction on his license in 1992 and in part of 1993. When Mr. McCluskey renewed his driver's license in December of 1993, the P endorsement no longer appeared and instead he had a T endorsement and no restriction. Later, Mr. McCluskey's license reflected a T endorsement and a T restriction.

7. After Mr. McCluskey was stopped on May 13, 2006 for the lack of the proper endorsement, he went to the Department of Motor Vehicles on May 31, 2006 for a new license and was issued one with a FPT endorsement and no restrictions.

8. Mr. McCluskey had been stopped by other inspectors over the years and his license endorsements were never questioned.

### III. DEPARTMENT ANALYSIS AND CONCLUSIONS OF LAW

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-103, 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-103, 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 evidence shows that on May 13, 2006, a driver for Carriage Limousine Service, Inc., Paul McCluskey, operated a motor vehicle bearing Connecticut marker plate number 5006 in intrastate livery service with a T endorsement and a T restriction. Mr. McCluskey had been operating with a T endorsement and a T restriction since he renewed his driver's license in December 1993. Prior to that time, Mr. McCluskey's license also had a P and T endorsement and I restriction.

While it is true that Mr. McCluskey should have been vigilant to make sure his license endorsements were correct, it is also true that the respondent took steps to make sure that Mr. McCluskey was properly licensed including having an independent license check performed by American Driving Records, Inc.

On March 26, 2006, the Department of Motor Vehicles issued a four page statement in an attempt to explain what endorsements are required to drive taxi and livery vehicles. The memo states that for all those persons who had their license issued prior to January 9, 2006, who will be operating in taxicab or livery service, the following endorsements and/or restrictions are acceptable for a driver holding a Commercial Driver's License:

1. S endorsement, or
2. S endorsement with a V restriction, or
3. P endorsement with S endorsement, or
4. P endorsement with an S endorsement and with a V restriction, or
5. P endorsement with a T restriction, or
6. T restriction only

Mr. McCluskey had his license renewed on December 11, 2001 so he would need to comply with the above endorsements. At the time he was stopped, Mr. McCluskey had a both a T restriction and a T endorsement so his license technically does not comply with the requirement which would be a T restriction only.

However, there are several mitigating facts in this case. There was a recent change in the law concerning what endorsement's were required, Mr. McCluskey was stopped earlier and not cited for a license problem and the respondent was diligent in checking Mr. McCluskey's license prior to his hire. As a result of these factors, a nominal civil penalty will be imposed on the respondent for allowing its driver to be out of compliance.


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 **One Hundred Dollars (\$100)**, by certified check, bank check or money order made payable to the "Treasurer, State of Connecticut," within thirty days from the date of the final decision.

Failure of the respondent to comply with this order shall result in revocation without further proceeding. This final decision constitutes notice in accordance with Connecticut General Statutes Section 4-182(c).

Dated at Newington, Connecticut on this the 17th day of December 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION

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