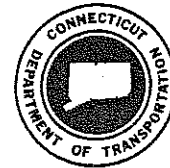
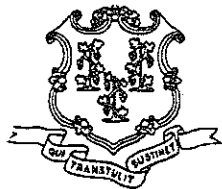


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STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone: (860) 594-2875

DOCKET NUMBER 0704-C-80-L  
(Complaint No. LV04-1207-40)

RE: IN THE MATTER OF THE CITATION OF CLASSIC  
CARS, LLC.

Final Decision

January 10, 2008

## I. INTRODUCTION

### A. Background

By citation dated May 10 and September 26, 2007, issued by the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes Section 13b-103, as amended, Classic Cars, LLC (hereinafter "respondent"), holder of Livery Permit Number 2337 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 2337, for the operation of livery service, should not be suspended, revoked or a civil penalty imposed for violation of its permit issued pursuant to Connecticut General Statutes Section 13b-103(a) and for violation of Regulations of Connecticut State Agencies Section 16-325-3 for failure to maintain an active headquarters.

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 on October 25, 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 failed to appear at this hearing. The respondent's mailing address of record is 420 Westport Road, Easton, Connecticut.

Robert Colucci, special investigator with the Regulatory and Compliance Unit of the Department of Transportation, presented the evidence. Eugene Morris, transportation inspector, appeared as a witness.

## II. FINDINGS OF FACT

1. The respondent is holder of Livery Permit Number 2337 for the operation of livery service.
2. On April 20, 2007, Eugene Morris was assigned to confirm the existence of a headquarters for the respondent based on a returned letter indicating "Return to Sender".
3. On April 20, 2007, Morris visited the respondent's address of record at 53 Gallows Hill Road in West Redding, Connecticut.
4. No one was at the purported office.
5. Morris called the respondent's telephone number and left a message on the answering machine, which identified the company by name.
6. Morris never received a return call from the respondent company.
7. On September 26, 2007, a Notice of Citation Hearing sent to the respondent by certified mail to an address of P.O. Box 355 in Redding Ridge, Connecticut.
8. According to the Regulatory and Compliance Unit Exhibit 1, the mailing address of the post office box was incorrect and the notice should have been mailed to 8 South Smith Street, East Norwalk, Connecticut.
9. On November 6, 2007, the Notice of Citation Hearing was returned to the department, unclaimed.
10. On May 17, 2007, the respondent filed an application to change headquarters from Redding to Easton.
11. On October 1, 2007, the respondent's application to transfer its headquarters was approved by the Regulatory and Compliance Unit.
12. The hearing file reflects telephone contact by the respondent's owner with the department regarding a first hearing scheduled for August 23, 2007 – which information indicated that the respondent had a problem and could not make the hearing.
13. The hearing was postponed to October 25, 2007.
14. The respondent failed to receive proper notice and therefore did not appear at the citation hearing.

### 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 evidence in this matter shows that the respondent is holder of Permit Number 2337 and is authorized to operate vehicles in livery service within the State of Connecticut from a headquarters in Redding, Connecticut. The evidence also shows that the respondent has failed to maintain a headquarters at its address of record based on a returned letter to the department that was unable to be delivered.

While this appears to be a simple matter of a permit holder failing to change its headquarters in accordance with the Regulations of Connecticut State Agencies, there are several facts that cause this case to be somewhat problematic, based both on actions of the department and the respondent.

The record shows that the department sent the respondent a notice of hearing for an unrelated case, for which the department identified the respondent as a company who might have had interest in the matter. That letter was returned to the department, unclaimed.

Based on the return of the letter, the Regulatory and Compliance Unit investigated the respondent's headquarters address on April 20, 2007. The investigator found that no one was at the address of record. The investigator left a message for the respondent, which did not result in any return call from the respondent.

On April 30, 2007, the Administrative Law Unit received the hearing file to proceed on a citation hearing for the respondent.

Meanwhile, on May 17, 2007, the respondent filed an application with the Regulatory and Compliance Unit to transfer its headquarters. The Administrative Law Unit had no indication that such an application was filed and scheduled a citation matter to be heard on August 23, 2007.

The hearing file shows that the respondent called the department on August 23, 2007 and asked to continue the hearing due to a personal family problem, and the hearing was continued to October 25, 2007.

On October 1, 2007, the Regulatory and Compliance Unit approved the respondent's application for a transfer of headquarters. Further, it appears from the record that the respondent's mailing address changed.

The Notice of Hearing for the October 25, 2007 hearing was sent to the (old mailing address) Post Office box and was returned to the department, unclaimed.

While under other circumstances the respondent would have been subjected to sanctions for failing to timely request a transfer of headquarters, the facts in this matter are too convoluted to proceed with a civil penalty.

The respondent did not receive its Notice of Citation hearing for the October 25, 2007 hearing date because it was sent to its old address of record (a new address of record was filed and approved on October 1, 2007), thereby creating defective notice. The department had a pending application, albeit late, for a transfer of headquarters and the Administrative Law Unit did not receive any indication that the transfer of headquarters application was pending. The respondent has a record clear of any citation matters since its inception in 1986. Looking at the facts in the most favorable light to the respondent, with all of the inconsistencies of this case, it would be an injustice to impose a civil penalty on the respondent.

IV. ORDER

Based on the above, this citation matter is hereby dismissed.

Dated at Newington, Connecticut on this the 10th January 2008.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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