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October 25, 2016

Director of Processing  
Illinois Commerce Commission  
Transportation Division  
527 East Capitol Avenue  
Springfield, IL 62794-9280

Re: Rendered Services, Inc., RTV-R 74 Sub 15

To Whom It May Concern:

Enclosed please find an original and two (2) copies of **Rendered Services, Inc.'s Motion to Compel** for filing with your office.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Donald S. Rothschild

DSR:kam

Enclosures

cc: The Honorable Latrice Kirkland-Montaque  
Benjamin Barr

**BEFORE THE  
ILLINOIS COMMERCE COMMISSION**

In Re: )  
RENDERED SERVICES, INC., )  
Respondent. ) Docket No. RTV-R 74 Sub 15  
81440 MC )

**NOTICE OF FILING**

To: Via First Class Mail                      Via Facsimile (312) 814-1818  
David Lazarides                              The Honorable Latrice Kirkland-Montaque  
Director of Processing                      Chief Administrative Law Judge  
Illinois Commerce Commission              Illinois Commerce Commission  
Transportation Division                      160 N. LaSalle Street, Suite C-800  
527 East Capitol Avenue                      Chicago, IL 60601  
Springfield, IL 62701

Via Facsimile (312) 814-1818  
Benjamin Barr  
Special Assistant Attorney General  
Illinois Commerce Commission  
160 N. LaSalle Street, Suite C-800  
Chicago, IL 60601

PLEASE TAKE NOTICE that on the 25<sup>th</sup> day of October, 2016, I caused to be filed with the Illinois Commerce Commission a copy of *Rendered Services, Inc.'s Motion to Compel*, a copy of which is attached and served upon you.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that he caused copies of the aforementioned document to be served upon all parties listed of record via facsimile transmission and by placing same in a postage prepaid envelope and depositing in the U.S. Mail at Burr Ridge, Illinois on this 25<sup>th</sup> day of October, 2016 before 5:00 p.m.



Donald S. Rothschild  
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**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

In Re: )  
 )  
RENDERED SERVICES, INC., ) RTV-R-74 Sub 15  
 ) 81440 MC  
Respondent. )

**RENDERED SERVICES, INC.'S MOTION TO COMPEL**

Respondent, RENDERED SERVICES, INC. ("RENDERED"), by its attorneys, Goldstine, Skrodzki, Russian, Nemecek and Hoff, Ltd., pursuant to 83 Ill. Adm. Code §200.370, submits its Motion to Compel, and states as follows:

1. On or about March 24, 2016, the Illinois Commerce Commission ("Commission") ordered that RENDERED appear in connection with a "fitness hearing" examination.

2. Staff subsequently served "Staff Data Requests". RENDERED thereafter issued written discovery to Staff. Staff responded to some discovery. Thereafter, the parties held several Rule 201(k) conferences, on September 9, October 14 and October 19, 2016; as a result, several of the issues in dispute were resolved. See 83 Ill. Adm. Code § 200.350.

3. One dispute currently remains concerning RENDERED's interrogatories. RENDERED'S Rule 213 Request No. 4 is as follows:

List with particularity any remedial or disciplinary action by the Commission (including the Illinois Commerce Commission Police) from August 9, 2012 to the present as a result of any Investigator's conduct in the course of performing his/her duties, with names, dates and issues involved described and provided.

4. The Commission objected to Rule 213 Request No. 4 as irrelevant. See Staff's Answer to Rendered Services, Inc.'s First Set of Interrogatories to the Illinois Commerce Commission attached as Exhibit A. There are 6 employees who would fall within this request

since they either issued administrative citations to RENDERED or were supervisory employees who reviewed their subordinates work. See Exhibit A, no. 2.

5. Discovery in this matter is controlled by the provisions governing civil actions, which includes the Illinois Code of Civil Procedure and Illinois Supreme Court Rules. 83 Ill. Adm. Code § 200.335(b)(1). Supreme Court Rule 201(b)(1) provides, in pertinent part:

(1) *Full Disclosure Required.* Except as provided in these rules, a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action ...

This policy of full disclosure is also incorporated into the Commission's Rules of Practice. See 83 Ill. Adm. Code § 200.340 ("... full disclosure of all relevant and material facts ...").

6. The Commission has presumably targeted RENDERED for a fitness hearing due to the number of administrative citations it has received. Transportation Counsel, Benjamin Barr, in a telephone conversation that occurred on October 19, 2016, indicated that the Commission has a service that compiles news stories pertaining to companies over which the Commission has jurisdiction. Thus, if there was sufficient negative publicity concerning Rendered's towing practices, this would seem to relate to why the Commission ordered a fitness hearing.

7. Administrative citations are issued by Commission police officers and investigators. These citations then result in either a payment, a settlement or an administrative hearing, the latter of which could result in a settlement, with or without a finding of liability or non-liability. Administrative violations may not have been established or sustained because the officer may have been derelict in or breached his investigatory duties. Additionally, citations may have been issued because the officer was over zealous in pursuing RENDERED or for other

improper reasons, while the citation may have lacked merit and was ultimately dismissed. In sum, the officers and investigators issuing the citations are the first step in the administrative citation process. Noting and compiling or otherwise using the numbers or sheer volume of citations issued to RENDERED suggests, albeit inaccurately, that it was not following the law in conducting relocation tows. At a minimum, as part of discovery RENDERED is entitled to probe behind the issuance of the citations to determine whether they were even meritorious or whether impermissible considerations affected this case or this proceeding.

8. RENDERED's Rule 213 Request No. 4 is indeed relevant to this subject matter of this case. "[T]he right to discovery is limited to disclosure of matters that will be relevant to the case at hand in order to protect against abuses and unfairness, and a court should deny a discovery request where there is insufficient evidence that the requested discovery is relevant or will lead to such evidence." *Youle v. Ryan*, 349 Ill. App. 3d 377, 380-81 (4th Dist. 2004), quoting *Leeson v. State Farm Mutual Automobile Insurance Co.*, 190 Ill. App. 3d 359, 366 (1st Dist. 1989). Courts have allowed defendants to cross-examine police officers about prior discipline since it could show a motive to testify falsely to avoid further disciplinary action. *People v. Phillips*, 95 Ill. App. 3d 1013, 1021 (1st Dist. 1981); *People v. Robinson*, 56 Ill. App. 3d 832, 840 (5th Dist. 1977). If the citation's issuer is careless in his duties or of bad character or has an ill-motive, such evidence is indeed relevant to show that the citation is unfounded and should never have been issued. Ill.R.Evid. 401 ("Relevance is that which has a tendency to make a fact more or less probable"); Ill.R.Evid. 404(b). A witness's credibility can also be attacked. Ill.R.Evid. 607. Thus, if a Commission employee was disciplined or otherwise subject to corrective action for issuing citations without a legal or factual basis, or manufacturing evidence against RENDERED or other relocators, RENDERED has a right to know to this in order to

defend itself. If a citation was determined to be unfounded, the fact that the citation was issued should not be counted against RENDERED and it should be allowed to argue this and related matters at the fitness hearing.

9. Whether the discovery, if ordered per this Motion, is admissible as evidence at a future hearing is another matter for ALJ analysis and judgment. Nevertheless, the Illinois Supreme Court Rules and Rule of Evidence clearly support the information being sought by RENDERED here as being relevant to the issuance of the citations.

10. Finally, if there are confidentiality concerns associated with disclosure of the requested information, RENDERED will agree to a protective order covering the contents of the information provided. Such protective orders have been effectively used in other relocation towing hearings.

WHEREFORE, Respondent, RENDERED SERVICES, INC., respectfully requests that the ALJ grant this Motion to Compel and order the Staff of the Illinois Commerce Commission to answer Rule 213 Request No. 4, and award all other relief deemed equitable and just.

Respectfully submitted,

RENDERED SERVICES, INC.,

By:   
One of Its Attorneys

Donald S. Rothschild  
Brian M. Dougherty  
Goldstine, Skrodzki, Russian,  
Nemec and Hoff, Ltd.  
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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In the matter of: :  
: Rendered Services, Inc., :  
Applicant. : Docket No. 74 RTV-R Sub 15  
: 81440 MC  
Application for renewal of a Commercial :  
Relocator's License pursuant to Section :  
401 of the Illinois Commercial Relocation :  
of Trespassing Vehicles Law, 625 ILCS :  
5/18a-401. :

**STAFF'S ANSWER TO RENDERED SERVICES, INC.'S FIRST SET OF INTERROGATORIES TO THE ILLINOIS COMMERCE COMMISSION**

1. Identify all witnesses that the Commission intends to present on its behalf with regard to the "fitness hearing" described in the Commission's press release of March 24, 2016. This should include: (a) the name of the witness; (b) the address of the witness; and (c) relationship of the witness to the Commission.

**ANSWER:** Investigation ongoing. It is unclear who Staff will present as witnesses until after Rendered's Response to Staff's Data Request has been analyzed.

2. Identify all Commission Investigators (including sworn police officers) employed during any time from August 9, 2012 to the present who investigated Rendered for any alleged violations of the laws that the Commission enforces. This request includes: (a) the name of the investigator; (b) the business address or last known address of the investigator if he/she is no longer a Commission employee; (c) the date of each investigation performed, including dates of communications with a complainant other witnesses or Rendered employees; (d) a list of all reports prepared by the investigator; and (d) if an administrative citation was issued, then identify the citation number.

**OBJECTION:** The business address or last known address of the individual investigators and officers, and dates of communication with Rendered personnel or complaining witnesses are irrelevant to the fitness of Rendered Services, Inc. to operate as a commercial vehicle relocater. Additionally, the additional data requested is requested in a format not ordinarily kept by the Commission and it would overly burden Staff of the Illinois Commerce Commission to analyze each investigation file for this time period to determine whether responsive data exists. Additionally, this interrogatory is in part duplicative of Requests to Produce # 16, in response to which Staff has provided a listing of all investigations into the operations of Rendered Services, Inc. during the time period August 9, 2012 – May 24, 2015.



**ANSWER:**

Investigators: James Carlson, Scott Kassal, Felix Uti  
Officers: John Geisbush, Bryan Strand, Tim Sulikowski

See also Exhibit 9 to Staff's Answer to Rendered's Requests to Produce.

3. With respect to the Commission Investigators listed in your answer to Interrogatory No. 2, identify all training provided to the Investigator, when the training was provided and identify who performed said training.

**OBJECTION:** Staff objects to this interrogatory as it is irrelevant to Rendered's fitness to operate as a commercial vehicle relocater. Staff further objects to this interrogatory as it is overly broad in scope in that the request would potentially require disclosure of training unrelated to the regulation of relocation towing and it is unlimited in time frame.

4. List with particularity any remedial or disciplinary action by the Commission (including the Illinois Commerce Commission Police) from August 9, 2012 to the present as a result of any Investigator's conduct in the course of performing his/her duties, with names, dates and issues involved described and provided.

**OBJECTION:** Staff objects to this interrogatory as it is irrelevant to Rendered's fitness to operate as a commercial vehicle relocater.

5. Describe with particularity the reasons why Rendered did not receive a timely renewal of its relocation license after applying for same in 2012, including the names and titles of all current and former Commission employees having knowledge of same. Provide a chronology of when the information supporting the non-renewal became known to the Commission.

**OBJECTION:** Staff objects to this interrogatory as it would require the disclosure of information subject to attorney-client privilege.

6. Identify with particularity all information including witnesses and documents, used by Staff and/or the Illinois Commerce Commission Police to recommend that a "fitness hearing" be conducted under this docket. Identify all persons having knowledge and all documents that pertain.

**OBJECTION:** Staff objects to this interrogatory as it would require the disclosure of information subject to attorney-client privilege and attorney work-product privilege.

7. The name, title and position description of the commission employee who prepares and mails the stamped ADMINISTRATIVE LAW JUDGE'S DECISION forms such as Exhibits 3 and 4 attached to Staff's Response to Motion to Deem Voluntary Payments as Settlements.



**ANSWER:** Rebecca Crask, Administrative Assistant I. Performs clerical duties for the Review & Examination Section of the Transportation Division of the Illinois Commerce Commission.

Respectfully submitted,

Staff of the Illinois Commerce Commission

By:   
\_\_\_\_\_  
Jennifer Anderson

Jennifer Anderson  
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STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

In the matter of:

Rendered Services, Inc.,  
Applicant.

:  
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:  
: Docket No. 74 RTV-R Sub 15  
: 81440 MC  
:  
:

Application for renewal of a Commercial  
Relocator's License pursuant to Section  
401 of the Illinois Commercial Relocation  
of Trespassing Vehicles Law, 625 ILCS  
5/18a-401.

**CERTIFICATE OF SERVICE**

TO:

Donald S. Rothschild  
Goldstine, Skrodzki, Russian, Nemecek and Hoff, Ltd.  
835 McClintock Drive, Second Floor  
Burr Ridge, Illinois 60527

**CERTIFICATE OF SERVICE**

I hereby certify under penalties of perjury as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure that a copy of the attached **STAFF'S ANSWER TO RENDERED'S INTERROGATORIES** was placed in the U.S. Mail properly addressed and mailed with first-class postage prepaid to the above listed persons on August 23, 2016.

  
\_\_\_\_\_  
Jennifer Anderson