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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
Protective Parking Service)
Corporation d/b/a Lincoln Towing,)
)No. 92 RTV-R Sub 17
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.)

Chicago, Illinois
May 20, 2016

Met pursuant to notice at 10:00 a.m.

BEFORE:
LATRICE KIRKLAND-MONTAQUE, Administrative Law Judge.

1 APPEARANCES:

2 PERL & GOODSNYDER LTD, by
3 MR. ALLEN R. PERL
4 MR. VLAD V. CHIRICA
5 14 North Peoria Street, Suite 2C
6 Chicago, Illinois 60607
7 (312) 243-4500
8 aperl@perlandgoodsnyder.com

9 Appearing on behalf of Protective Parking
10 Service Corporation d/b/a Lincoln Towing;

11 ILLINOIS COMMERCE COMMISSION, by
12 MS. JENNIFER ANDERSON
13 MR. BENJAMIN BARR
14 160 North LaSalle Street, Suite C-800
15 Chicago, Illinois 60601-3104
16 (312) 814-1934
17 (312) 814-2859
18 janderson@icc.illinois.gov

19 Appearing on behalf of the Staff of the
20 Illinois Commerce Commission.

21 SULLIVAN REPORTING COMPANY, by
22 Brad Benjamin, CSR
License No. 084-004805

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
None.					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
None so marked or admitted.		

1 JUDGE KIRKLAND-MONTAQUE: By the power vested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I now call Docket No. 92 RTV-R
4 Sub 17 for hearing.

5 This is in the matter of Protective
6 Parking Service Corporation, doing business as
7 Lincoln Towing Service, and we are here on a status
8 hearing on Lincoln Towing's fitness to hold a
9 Commercial Vehicle Relocator's License pursuant to
10 the Illinois Commercial Relocation of Trespassing
11 Vehicles Law.

12 May I have appearances, please. Let's
13 start with Staff.

14 MS. ANDERSON: Thank you, your Honor.

15 My name is Jennifer Anderson. I
16 appear on behalf of the staff of the Illinois
17 Commerce Commission. My address is 160 North LaSalle
18 Street, Chicago, Illinois 60601. My phone number is
19 (312) 814-1934.

20 MR. BARR: Good morning, your Honor.

21 My name is Benjamin Barr, and I also
22 appear on behalf of the staff of the Illinois

1 Commerce Commission. My address is 160 North
2 LaSalle, Suite 800, Chicago, Illinois 60601, and my
3 phone number's (312) 814-2859.

4 JUDGE KIRKLAND-MONTAQUE: Okay. Protective
5 Parking?

6 MR. PERL: Good morning, your Honor.

7 For the record, my name is Allen Perl,
8 P-E-R-L, on behalf of Protective Parking Service,
9 doing business as Lincoln Towing. My address is 14
10 North Peoria Street, Suite 2C, Chicago, 60607. My
11 telephone number is (312) 243-4500.

12 MR. CHIRICA: My name is Vlad Chirica,
13 C-H-I-R-I-C-A. I'm here also with Protective
14 Services [SIC]. Our address is 14 North Peoria,
15 Suite 2C, Chicago, Illinois 60607. Our phone number
16 is (312) 243-4500.

17 JUDGE KIRKLAND-MONTAQUE: Thank you.

18 All right. I believe -- well, why
19 don't I just give Ms. Anderson the floor to give me
20 an update on where things stand with discovery.

21 MS. ANDERSON: Sure, your Honor.

22 On May 9th I provided to Protective

1 Parking an initial production in response to a data
2 request that they served on Staff. I received a
3 letter in response to that production today from
4 Protective Parking's counsel opposing several
5 objections that I had made to data request questions,
6 and in other instances calling for additional
7 information to be produced.

8 Yeah, I do recognize that in certain
9 instances our production does need to be supplemented
10 and acknowledge that there are questions where
11 information is still outstanding, and we intend to
12 produce more information when it becomes available,
13 just to give some background to your Honor on that
14 issue.

15 Several of the data request questions
16 would request information which is also the subject
17 of a current pending Freedom of Information Act
18 request that Protective Parking Service Corporation
19 has filed. And right now in order to get that
20 information -- namely, copies of correspondence from
21 within the Commission or between the Commission and
22 third parties that we would have in Staff e-mail

1 accounts -- the ICC's IT Department is currently
2 having to coordinate an agency-wide scan for an
3 extended period of time through the Illinois
4 Department of Central Management Services because
5 they have some IT resources that we simply don't have
6 to accomplish a project that is this big.

7 I have not been the primary point of
8 contact from the Office of Transportation Counsel
9 with regard to that search. It's been Ms. Kowalska
10 who's been handling the FOIA request, and I don't
11 really have any further update on how that's
12 proceeding right now. She's been out of the office,
13 and when she returns I expect her to follow up with
14 the status of that.

15 And it's also my understanding, based
16 on some language in this letter, that potentially --
17 I don't know how to respond to this directly because
18 I am not familiar with the search technology
19 available in the system that they're using to scan
20 the e-mails. But Protective has indicated that
21 they're at least maybe willing to try to reach
22 agreement on maybe narrowing down the search terms to

1 a certain extent to maybe try to make the searches go
2 quicker or avoid certain records that are completely
3 irrelevant to what it is they're trying to get. But
4 that dialogue is still ongoing at this point.

5 So that's basically where we're at
6 right now with Staff's production to Protective
7 Parking Service Corporation. You know, I don't
8 foresee us being able to reach agreement on
9 everything; but I have received this communication
10 with Mr. Perl, and I do intend to continue to work on
11 that.

12 In the meantime, in terms of receiving
13 a response from them to Staff's data request, I have
14 not received a response.

15 JUDGE KIRKLAND-MONTAQUE: Mr. Perl?

16 MR. PERL: So I can address that, your Honor.

17 First of all, I do apologize. I had a
18 death in the family that we've been dealing with for
19 about three weeks now. My sister-in-law passed away,
20 was in hospice, so I apologize. I will have a
21 response to them in the next seven days --

22 JUDGE KIRKLAND-MONTAQUE: Okay.

1 MR. PERL: -- from their discovery as well. I
2 apologize for that.

3 In regard to what we did receive,
4 basically I received almost nothing. So I sent out a
5 FOIA; I got nothing. I sent out voluminous
6 discovery; I literally got two pages of a hearing
7 that they decided to have the hearing for this, and
8 maybe another 50 or 60 pages of invoices from Lincoln
9 Towing and that's it.

10 So I think the last time we were here
11 I stated that I need to know the basis for why we're
12 having this hearing since we were approved in July of
13 2015, and I requested a lot of documentation. And
14 I'm sure that Ms. Anderson and I will be able to work
15 through a lot of what was in my letter, but I do
16 understand when they say it's duplicative. We asked
17 for the same things in the FOIA, but I got nothing
18 from the FOIA either.

19 So I have nothing from the FOIA; I
20 have nothing from them. And I don't really know how
21 to proceed other than to state that I need all this
22 documentation, the written discovery, depositions, in

1 order to proceed and determine that I can fully have
2 a hearing on the merits of the case.

3 So I think that Ms. Anderson and I
4 can -- may work through it, but it's going to take
5 some time because -- and I did state to Katie at the
6 ICC that, preliminarily, if she would want to give me
7 a spreadsheet, I'll take a look at that to see if I
8 can use that in lieu of the documents.

9 What I really need is, you know, all
10 the tickets that are pending, what they were for, the
11 basis for them, how they were resolved. And I know
12 they have it because somebody made a decision to go
13 forward on the fitness hearing. So they must have
14 done that based on something. They didn't just one
15 day say, We're going to have a fitness hearing. So I
16 don't even have that.

17 So if I had even a spreadsheet to take
18 a look at, I might be able to decide I need this --
19 the follow-up document. In other words, if I got a
20 spreadsheet saying, Here's all -- the list of all
21 the -- I don't want to say "complaints" because this
22 is where the confusion comes in. We talk about

1 complaints in the litigation world, that's a written
2 thing; in this world, it's not. Sometimes complaints
3 come in and it never gets in writing and I don't see
4 it at all. I'm talking about the tickets that were
5 issued.

6 So if I saw a list of all the tickets
7 that were issued in the last few years -- the
8 citation numbers, what it was for, how it was
9 resolved -- those would help. Those things would
10 help me because part of what I'm facing -- what
11 Lincoln Towing is facing are a lot of claims that
12 tickets were for certain things that they weren't.
13 And I do believe that one of the reasons that we're
14 here is because there's a lot of stuff in the news
15 lately about all these tickets, then this
16 misinformation.

17 Most of our tickets have nothing to do
18 with the tows themselves. Most of our tickets are
19 administrative -- failure to put -- to fill out the
20 invoice correct- -- properly, failure to E-File --
21 all the things that don't really affect the public
22 because when you park your car illegally and you get

1 towed, you don't know at the time they're going to
2 fill out the invoice with one letter wrong, and it
3 doesn't affect you.

4 And I'm not saying that that might not
5 be a violation for the Illinois Commerce Commission,
6 but it really is not something that affects the
7 public. And part of my problem is this perception
8 out there that's going on.

9 And I need to see all these tickets
10 and how they're resolved and what they were -- really
11 were for, and I also need to see my competitors'.
12 Another issue we asked for in our first disc- -- our
13 discovery, we want to see our competitors' tickets
14 and what they're for as well.

15 JUDGE KIRKLAND-MONTAQUE: When you say
16 "competitors," who are -- I mean, how many?

17 MR. PERL: Rendered Ser- -- there's only two.
18 I only asked for two: Rendered Services and A1.
19 That was it.

20 JUDGE KIRKLAND-MONTAQUE: Okay.

21 MR. PERL: And the reason I need to see it is
22 because I need to see whether or not we're being

1 treated the same, whether or not they have more or
2 less infractions than we do, and how they resolve
3 theirs as well so I can kind of go back to my client
4 and advise him accordingly.

5 Also, we know we did just get renewed
6 in July of 2015, and I need to see all the
7 documentation from them to see -- at that point in
8 time they deemed us fit. So I'm trying -- I need to
9 establish what happened between July of 2015 and
10 February/March of 2016 when they decided to have
11 another hearing.

12 And I have to be able to figure out
13 how many tickets were pending at the time we got
14 renewed last time. And two years before when we got
15 renewed, I need to see how many tickets were pending
16 then as well. Because if nothing's changed and all
17 along these were -- these are like a similar amount
18 of tickets that have always been pending, I need to
19 determine what it is about the current situation that
20 the ICC deems that we need to have a hearing.

21 Also, I asked for copies of e-mails,
22 text messages, and all correspondence between the

1 Illinois Commerce Commission regarding Lincoln
2 Towing. I got one two-page hearing -- public
3 hearing, that's it. I can't -- I find it hard to
4 believe that there's no e-mails, letters,
5 correspondence regarding -- somebody had to decide
6 they wanted to have a hearing for fitness for Lincoln
7 Towing. It didn't just happen; I got nothing from
8 that.

9 So -- and I'm not saying that we won't
10 get it from Ms. Anderson, but we don't have anything
11 yet and we're kind of far away from -- I mean, the
12 document production requests -- I could show you my
13 requests -- I asked for a lot of documents and I
14 didn't get any.

15 And I did talk to Katie, and Katie
16 said, You know, Allen, it would be like 2- -- 300,000
17 documents if we just typed the word "Lincoln" in.
18 Because Lincoln could be a lot of things. You know,
19 we're in the Land of Lincoln. Anything that has
20 Lincoln in it.

21 So I think we suggested this morning,
22 you know, maybe type in "Lincoln" with the word

1 "tow," with the word "towing," with the word --
2 something in it so -- anywhere within the body of it
3 so we limit it. And we'll even do a Protective Order
4 that -- if they accidentally give us documents that
5 aren't responsive to what -- we'll agree to a
6 Protective Order. But I do need to have the
7 discovery completed before we can move forward.

8 JUDGE KIRKLAND-MONTAQUE: Do you have something
9 you want to say?

10 MS. ANDERSON: No, your Honor. Just that I --
11 the issues he's speaking of with regard to getting a
12 spreadsheet of certain citations and these e-mails,
13 that would be relevant under this discovery; but it's
14 also relevant under the pending FOIA. And those are
15 tasks which Staff is currently working on and we do
16 intend to comply with.

17 But basically what I would suggest at
18 this point is getting another status discovery date
19 basically in -- in the month of June. And hopefully
20 at that point, either we will have been able to
21 produce additional documentation or if there is some
22 reason why it's not available at that time,

1 hopefully, I will have a better explanation as to why
2 in terms of how this e-mail scanning process is
3 moving forward.

4 And, you know, I would imagine by that
5 point -- Mr. Perl has indicated that I will be
6 receiving a response within the next seven days to
7 Staff's data request, and hopefully -- you know,
8 maybe if we set it out later in the month of June,
9 that would have given me an opportunity to review
10 whatever it is that they give to me.

11 JUDGE KIRKLAND-MONTAQUE: Okay.

12 MS. ANDERSON: But I do want to urge this
13 process to continue moving forward.

14 JUDGE KIRKLAND-MONTAQUE: Oh. Well,
15 definitely. It has to move forward.

16 MR. PERL: And I'm all for moving the process
17 forward. I just have to do it in a way that my
18 client can actually, you know, present a proper
19 defense.

20 JUDGE KIRKLAND-MONTAQUE: Sure. I understand.

21 If I recall the last status hearing, I
22 think you summarized some of the data requests that

1 Staff propounded onto Lincoln, and it was the --
2 correct me if I'm wrong -- did that include the
3 num- -- a certain -- or copies of towing invoices for
4 a certain period of time?

5 MS. ANDERSON: Yes and no. We didn't ask for
6 the specific invoices. We asked for like a list.

7 MR. PERL: Right.

8 MS. ANDERSON: So if they're able to generate
9 some sort of computer printout for a period of time,
10 we would accept that instead of copies of all of the
11 invoices.

12 JUDGE KIRKLAND-MONTAQUE: Oh. I see.

13 MS. ANDERSON: Like a spreadsheet or something.

14 JUDGE KIRKLAND-MONTAQUE: I see. Okay.

15 MR. PERL: And I think I might have told your
16 Honor last time that just, maybe coincidentally,
17 prior to even getting the notice of the hearing,
18 we -- Lincoln Towing revamped their computer system.
19 So they started sometime last year in
20 September/October putting in a brand-new computer
21 system, which would alleviate many of the problems.

22 Probably 80 percent of our tickets are

1 going to go away now based on the fact that we have a
2 new computer system that -- it's one of those things
3 where you -- you know how you're on-line and you try
4 to fill something out, and it won't let you do it
5 until you finish filling out all the fields? We have
6 that now. Prior to this, we didn't have that for our
7 invoices. So you could actually generate an invoice,
8 and if you missed a box, you wouldn't know it because
9 you would print out the invoice.

10 Now, when you print out an invoice --
11 I can only say because I'm not a computer expert. I
12 know when I go online for something to fill out for
13 my kid's school or something, you have to fill in all
14 the boxes. And if you miss one, it will say it in
15 red, you know, you didn't fill out all the fields.
16 You got to go back and do it. Now we have that.

17 So it's going to be a lot more
18 difficult for us to improperly fill out an invoice,
19 which is -- as your Honor is aware, sometimes 20 or
20 30 of our tickets are failure to properly fill out an
21 invoice. That should go away. The E-filing as well;
22 this will help the E-filing system. So all those

1 things should be resolved with this.

2 And the reason I mention this is
3 because this list -- you know, prior to this we
4 didn't have that. So we literally have to hire
5 someone to come to Lincoln Towing to create this list
6 and go in -- back and kind of recreate, by hand, all
7 this stuff. And they're doing it; I think they might
8 almost be done.

9 Now it's just me getting to them, and
10 I've been gone for -- in and out of the office for
11 the last two weeks. So I'll do that myself, and we
12 should be able to get that back to them. I said
13 seven days; if I could get fourteen that would be
14 better for me so I can ensure I get it done.

15 MS. ANDERSON: Well, as much as I would prefer
16 to have this stuff in seven days, I know that I'm
17 going to be out of the office for several days. So
18 that fourteen-day time period would not negatively
19 impact Staff.

20 JUDGE KIRKLAND-MONTAQUE: Okay.

21 MR. PERL: And if we're picking a date in
22 June...

1 JUDGE KIRKLAND-MONTAQUE: Yeah. The week of
2 June 20th is good for me, the Thursday.

3 MS. ANDERSON: Thursday the 23rd --

4 MR. BARR: Works for me.

5 MS. ANDERSON: -- is fine for Staff.

6 MR. PERL: That's fine for me, Judge.

7 JUDGE KIRKLAND-MONTAQUE: Okay. 10:00 o'clock.

8 MR. PERL: Is that status on discovery?

9 JUDGE KIRKLAND-MONTAQUE: Correct.

10 And hopefully once information starts
11 flowing between the Commission and the -- and
12 Lincoln, hopefully we can define the scope. And I
13 don't know your thoughts on that, but it just
14 seems -- I think the issue right now is that it's
15 very broad. Everyone's looking at as much
16 information as possible, and I don't know how long
17 that might take, which could be a very long time.

18 I think if we could define the scope
19 of this investigation, that would help us in the
20 discovery process and ultimately getting to a
21 hearing. So keep that in mind as we move forward. I
22 think that's going to better serve everyone if we

1 were to do that.

2 So what I'm going to do is continue
3 this status hearing on discovery to 10:00 a.m.,
4 June 23rd, here in Chicago, and we will reconvene at
5 that time.

6 Thank you.

7 (Whereupon the matter above was
8 continued until June 23, 2016,
9 at 10:00 a.m.)

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