

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of)

**KENTUCKY HOUSEHOLD)
GOODS CARRIERS)
ASSOCIATION, INC.,)**

a corporation.)

Docket No. 9309

**COMPLAINT COUNSEL’S MOTION FOR AN EXTENSION OF TIME TO TAKE
DEPOSITION OF RESPONDENT’S WITNESS DENNIS TOLSON**

Pursuant to the Federal Trade Commission (“FTC”) Rules of Procedure 3.22(d), Complaint Counsel moves for an extension of time to take the deposition of a witness, Dennis Tolson, that Respondent recently placed on its revised witness list.

Respondent’s revised witness list was filed on November 24, 2003 - the last week of the period set for completing discovery in this matter. (The week contains the Thanksgiving Day holiday.) Mr. Tolson appeared on Respondent’s preliminary witness list but during the time Respondent’s Counsel and Complaint Counsel were scheduling depositions, Respondent’s Counsel informed Complaint Counsel that Respondent did not plan to place Mr. Tolson on the revised witness list nor call him to testify at trial. Following the deposition of Mr. Mirus on the afternoon of November 19, Respondent’s Counsel informed Complaint Counsel that based on Mr. Mirus’s deposition testimony, Respondent felt that it may be necessary to Respondent’s defense for Respondent to call Mr. Tolson. (*See*, Declaration of Dana Abrahamsen, at Appendix A) Complaint Counsel and Respondent’s Counsel discussed scheduling the deposition of Mr.

Tolson prior to the December 1 deadline for completing discovery but due in large part to the Thanksgiving Holiday, counsel were unable to do so. Complaint Counsel and Respondent's Counsel are prepared to take Mr. Tolson's on December 15 and 16.

Complaint Counsel does not object to Respondent calling Mr. Tolson. Complaint Counsel believes that the factual record in this matter should be robust and that Respondent should be permitted to place into the record facts pertaining to Respondent's defenses. Therefore, Complaint Counsel urges the tribunal to permit this deposition to take place.

It should be noted that Complaint Counsel and Respondent's Counsel have completed all of the other pertinent depositions in this matter. In addition, discovery of documents has been completed. Granting this request for an extension will not necessitate the expansion of any other deadlines set forth in the scheduling order in this matter.

A draft order is attached.

Respectfully submitted,

Dana Abrahamsen
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2096
Facsimile (202) 326-3496

Dated: November 26, 2003

CERTIFICATE OF SERVICE

This is to certify that on November 26, 2003, I caused a copy of the attached Complaint Counsel's Motion for an Extension of Time to Take Deposition of Respondent's Witness Dennis Tolson to be served upon the following persons by facsimile, U.S. Mail or Hand-Carried:

The Honorable D. Michael Chappell
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
With Attachments

James C. McMahon
Brodsky, Altman & McMahon, LLP
60 East 42nd Street, Suite 1540
New York, NY 10165-1544
(212) 986-6905 *facsimile*
With Attachments (Overnight delivery)

James Dean Liebman, Esquire
Liebman and Liebman
403 West Main Street
Frankfort, Kentucky 40601
(502) 226-2001 *facsimile*
Without Attachments

Dana Abrahamsen

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In the Matter of

**KENTUCKY HOUSEHOLD
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**ORDER GRANTING COMPLAINT COUNSEL’S MOTION FOR AN EXTENSION OF
TIME TO TAKE DEPOSITION OF RESPONDENT’S WITNESS DENNIS TOLSON**

Pursuant to the Federal Trade Commission (“FTC”) Rules of Procedure 3.22(d) Complaint Counsel moved for an extension of time to take the deposition Mr. Dennis Tolson, a witness that Respondent listed on its revised witness list. For good cause shown, it is hereby

ORDERED that the deposition of Mr. Tolson may occur after the December 1, 2003 deadline for the close of discovery.

D. Michael Chappell
Administrative Law Judge

Dated: _____, 2003

Appendix A

