

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

**Director of the Manufactured Housing and  
Modular Units Program of the Public  
Service Commission,** )

**Complainant,** )

**v.** )

**A & G Commercial Trucking, Inc.** )

**Respondent.** )

**Case No. MC-2004-0078**

**MOTION TO DISMISS**

COMES NOW, Respondent, A & G Commercial Trucking, Inc., by and through its attorneys of record, and for its Motion to Dismiss, states the Commission as follows:

1. The Director of Manufactured Housing and Modular Units Program of the Public Service Commission (hereinafter “Director”) brought this complaint against A & G Commercial Trucking, Inc. (hereinafter “A&G”) pursuant to Section 700.100, RSMo. (Supp. 2002).

2. Section 700.100.2, RSMo. (Supp. 2002) states that “the Commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if true, shall constitute grounds for revocation or suspension of his registration, or the placing of the registered manufacturer or dealer on probation.” This section grants the Public Service Commission (hereinafter “Commission”) jurisdiction only to consider a complaint filed against a registered manufacturer or dealer.

3. The term “manufacturer” is defined in Section 700.010.6 RSMo. (Supp.2002), as “any person who manufactures manufactured homes, or modular units, including persons who engage in importing manufactured homes, or modular units for resale.”

4. The term “dealer” is defined in Section 700.010.4, RSMo. (Supp. 2002), as “any person other than a manufacturer who sells or offers for sale four or more manufactured homes or modular units in any consecutive twelve month period.”

5. The term “registered dealer” is not defined under Chapter 700,RSMo.
6. The term “registered manufacturer” is not defined under Chapter 700, RSMo.
7. The term “registered” is not defined under Chapter 700, RSMo.
8. Accordingly, the phrase in section 700.100, that “the Commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of provisions of the section,” (emphasis added) can only be interpreted to mean that the person or entity against which a complaint has been filed by the Director must first be registered with the Commission prior to the Commission considering the complaint.
9. This Commission is not vested with the authority to obtain jurisdiction over a non-registered manufacturer or non-registered dealer pursuant to Chapter 700, RSMo., or Chapter 386, RSMo. (the Public Service Commission Law).
10. In the case at hand, A & G is not a registered manufacturer or registered dealer with the state of Missouri.
11. Accordingly, this Commission has no jurisdiction to hear this complaint filed against A & G.
12. A & G is currently a party to, and a defendant in, Boone County Circuit Court Case Number 04CV165070 (hereinafter “Lawsuit”) filed by the State of Missouri Attorney General’s Office. A copy of the Attorney General’s First Amended Petition naming A & G as a party is attached hereto as **Exhibit A**, and incorporated herein by reference.
13. Further, on May 20, 2004, the Commission was made a party to the Lawsuit pursuant to the Order entered by Honorable Judge Ellen S. Roper. A copy of said Order is attached hereto as **Exhibit B**.
14. As the Commission has no jurisdiction to hear a complaint filed against a non-registered dealer, and as the Commission is now a party to the Lawsuit in which it may potentially obtain civil damages against A & G for the acts alleged in the complaint, and as the civil damages prayed for in the complaint against A & G can be recovered in the Lawsuit, this case should be dismissed.
15. Finally, this Motion to Dismiss shall not supersede or abandon, in any manner, Respondent's previously filed "Motion to Dismiss Complaint or Alternative Motion to Strike" submitted to

this Commission on March 25, 2004. It is Respondent's intent that all matters contained therein, and all matters contained herein, will be taken up simultaneously with the Commission.

WHEREFORE, Respondent prays that the complaint in this cause be dismissed for the aforementioned reasons, for its costs and expenses herein accrued, and for such other and further relief as the Court deems just and proper.

\_\_\_\_\_/s/\_\_\_\_\_  
Thomas M. Harrison  
**VAN MATRE AND HARRISON, P.C.**  
1103 East Broadway  
P. O. Box 1017  
Columbia, Missouri 65205  
(874-7777)  
Telecopier: (573) 875-0017  
Missouri Bar Number 36617  
Attorney for the Defendant

CERTIFICATE OF MAILING

The undersigned certifies that a complete and conformed copy of the foregoing document was mailed to each attorney who represents any party to the foregoing action, by U.S. Mail, postage prepaid in the proper amount, at said attorney's business address.

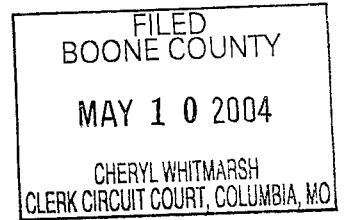
\_\_\_\_\_/s/ Thomas M. Harrison\_\_\_\_\_  
Dated: May 21, 2004

## **Exhibit A**

CHT-1111

COB  
508

IN THE CIRCUIT COURT OF BOONE COUNTY  
STATE OF MISSOURI



STATE OF MISSOURI, ex rel. JEREMIAH W. (JAY)  
NIXON, Attorney General

Plaintiff.

v.

Greg DeLine  
111 Eastside Drive  
Ashland, MO 65010

Amega Sales, Inc.  
111 Eastside Drive  
Ashland, MO 65010

d/b/a Amega Mobile Home Sales, Inc.  
111 Eastside Drive  
Ashland, MO 65010

d/b/a Columbia Discount Homes  
5311 Highway 763 North  
Columbia, MO 65202

d/b/a Mark Twain Mobile Home Sales  
602 North Pleasant Street  
Farber, MO 63345

d/b/a Quality Pre-Owned Homes  
5670 Highway 763 North  
Columbia, MO 65202

DeLine Finance, L.L.C.  
111 Eastside Drive  
Ashland, MO 65010

Service Pro, Inc.  
111 Eastside Drive  
Ashland, MO 65010

Defendants.

Case No. 04CV165070

**MOTION FOR LEAVE TO AMEND**  
**PETITIONER'S PETITION FOR PRELIMINARY AND PERMANENT INJUNCTIONS,**  
**RESTITUTION, CIVIL PENALTIES, AND OTHER COURT ORDERS**

COMES NOW the State of Missouri as Plaintiff in this action, by and through its Attorney General Jeremiah W. (Jay) Nixon and his assistants Peter Lyskowski and Zora Mulligan, and respectfully requests leave to amend its Petition for Preliminary and Permanent Injunctions, Restitution, Civil Penalties, and Other Court Orders. In support of its motion, Plaintiff states as follows:

1. Plaintiff's Petition for Preliminary and Permanent Injunctions, Restitution, Civil Penalties, and Other Court Orders was filed in Boone County on March 8, 2004.
2. Since that time, Plaintiff has received information about Defendants' additional violations of the Merchandising Practices Act, Chapter 407, RSMo 2000, and the Manufactured Homes Act, Chapter 700, RSMo 2000, not alleged in Plaintiff's first petition.
3. Since that time, Plaintiff has learned that A&G Commercial Trucking, Inc., must be added as a Defendant.
4. Justice requires amendment of Plaintiff's petition.
5. The Amended Petition for Preliminary and Permanent Injunctions, Restitution, Civil Penalties, and Other Court Orders is attached to this Motion.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON  
Attorney General

  
PETER LYSKOWSKI

Assistant Attorney General  
Missouri Bar No. 52856

*Zora Mulligan*

Zora Mulligan  
Assistant Attorney General  
Missouri Bar No. 54990

P.O. Box 899  
Jefferson City, MO 65102  
Telephone: (573) 751-1444  
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed by certified mail, postage prepaid, this 10<sup>th</sup> day of May, 2004 to:

Michael G. Berry, L.L.C.  
221 Bolivar Street, Suite 100  
Jefferson City, MO 65101

Thomas M. Harrison  
Van Matre & Harrison, P.C.  
1103 E. Broadway, Suite 101  
Post Office Box 1017  
Columbia, MO 65201

Danieal H. Miller, P.C.  
10 Southhampton, Suite B  
Columbia, MO 65203

*Zora Mulligan*

\_\_\_\_\_  
Zora Mulligan  
Assistant Attorney General

IN THE CIRCUIT COURT OF BOONE COUNTY  
STATE OF MISSOURI

STATE OF MISSOURI, ex rel. JEREMIAH W. (JAY)  
NIXON, Attorney General

Plaintiff.

v.

Greg DeLine  
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5670 Highway 763 North  
Columbia, MO 65202

DeLine Finance, L.L.C.  
111 Eastside Drive  
Ashland, MO 65010

Service Pro, Inc.  
111 Eastside Drive  
Ashland, MO 65010

Defendants.

*Rec*  
BOONE COUNTY  
MAY 10 2004  
CHERYL WHITMARSH  
CLERK CIRCUIT COURT, COLUMBIA, MO

Case No. 04CV165070

**PLAINTIFF'S FIRST AMENDED PETITION FOR PRELIMINARY  
AND PERMANENT INJUNCTIONS, RESTITUTION, CIVIL PENALTIES,  
AND OTHER COURT ORDERS**

COMES NOW the State of Missouri as Plaintiff in this action, by and through its Attorney General Jeremiah W. (Jay) Nixon and his assistants Peter Lyskowski and Zora Mulligan, and states as follows:

**PARTIES**

1. Jeremiah W. (Jay) Nixon is the duly elected, qualified, and acting Attorney General of the State of Missouri. The Attorney General brings this action in his official capacity pursuant to Chapter 407, RSMo 2000.

2. Defendant Greg DeLine is an individual, a resident of Missouri, and the president and sole member of the board of directors of Amega Holdings, Inc.; Amega Sales, Inc.; and Service Pro, Inc. Greg DeLine is the executive of DeLine Finance, L.L.C.

3. Defendant A&G Commercial Trucking, Inc., is a Missouri corporation located at 111 Eastside Drive, Ashland, Missouri 65010.

4. A&G Commercial Trucking, Inc., was incorporated on December 27, 1999, as the surviving entity of a merger involving A&G Trucking, L.L.C., an entity created on April 20, 1995.

5. The officers of A&G Commercial Trucking, Inc., are Greg DeLine, president; Rose Grant, vice-president; and Kelly DeLine, secretary. Greg DeLine is the sole member of the board of directors of A&G Commercial Trucking, Inc.

6. Defendant Amega Sales, Inc., is a Missouri corporation located at 111 Eastside Drive, Ashland, Missouri 65010.

7. Amega Sales, Inc., was incorporated on December 28, 1999.

## **Exhibit B**

NOTICE OF ENTRY  
(SUPREME COURT RULE 74.03)

In The 13TH JUDICIAL CIRCUIT Court Within  
And For The Court of Boone County, State of Missouri

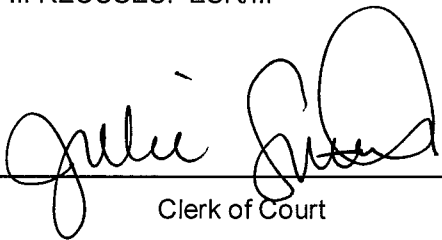
STATE OF MISSOURI V GREG DELINE ET AL

CASE NO : 04CV165070

To: THOMAS M. HARRISON  
1103 E BROADWAY 101  
P.O. BOX 1017  
COLUMBIA, MO 65205-1017

YOU ARE HEREBY NOTIFIED that the court duly entered the following:

<u>Filing Date</u>	<u>Description</u>
20-May-2004	Order MOTION TO JOIN PSC IS SUSTAINED. DIVISION III RECUSES. ESR/III

  
Clerk of Court

CC: THOMAS M. HARRISON  
Date Printed : 21-May-2004