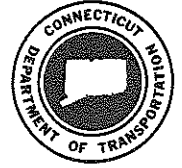


STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone:

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DOCKET NUMBER 0811-C-185-T
(Case No. TX12-0208-53)

RE: IN THE MATTER OF THE CITATION OF YELLOW CAB COMPANY
D.B.A. YELLOW CAB, METRO TAXI CO, INC. D.B.A. YELLOW CAB
AND STAR TAXI, INC. D.B.A. YELLOW CAB.

Final Decision

July 2, 2009

I. INTRODUCTION

A. General

By citation dated February 11, 2009, by the Department of Transportation (hereinafter "Department"), pursuant to Connecticut General Statutes Section 13b-103, as amended, Yellow Cab Company d.b.a. Yellow Cab, Metro Taxi Co., Inc. d.b.a. Yellow Cab and Star Taxi, Inc. d.b.a. Yellow Cab (hereinafter "Yellow Cab"), holder of Certificate Numbers 1, 1100 and 1002, was ordered to come before the Department to answer the 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 its Certificate of Financial Responsibility should not be suspended, revoked or a civil penalty imposed for violations pursuant to Connecticut General Statutes Section 13b-96, et seq. More specifically, it is alleged that the respondent violated Connecticut General Statutes Section 13b-97 and 14-29 by failing to meet the requirements of the Certificate of Financial Responsibility.

The citation was served upon the respondent by first class and certified mail and recited the Department's reasons for issuing it.

B. Hearing Held

Pursuant to Section 13b-96 of the Connecticut General Statutes, as amended, the public hearing for this citation was held on June 18 and 24, 2009.

Notice of the citation and the hearing to be held thereon was given to the respondent and to such other parties as required by Connecticut General Statutes Section 13b-96, 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 Connecticut General Statutes.

C. Appearances

Marco Henry appeared on behalf of the respondent at the hearing. The respondent was represented by Attorney Stanley Falkenstein. Attorney Falkenstein's mailing address is 113 East Center Street, Manchester, Connecticut 06040.

Eugene Morris, Transportation Public Transit Inspector with the Regulatory and Compliance Unit, acted as a case presenter on behalf of the Department.

D. Administrative Notice

Administrative notice was taken of three previous decisions in Docket Number 0402-C-05-T, 0402-C-06-T and 0402-C-07-T, the citation hearings for Transportation General issued on August 24, 2004.

II. FINDINGS OF FACT

1. The respondent is the holder of three taxicab certificates in the name of Yellow Cab Company d.b.a. Yellow Cab-Certificate Number 1, Metro Taxi Co., Inc. d.b.a. Yellow Cab-Certificate Number 1100 and Star Taxi, Inc. d.b.a. Yellow Cab-Certificate Number 1102 (hereinafter referred to as "respondent").

2. The respondent was allowed to self insure one of its three companies in Docket Number 0511-SI-14-T issued on April 19, 2006 and then its other two companies in Docket Number 0511-SI-14-T, 0602-SI-04-T and 0608-SI-68-T issued on November 6, 2006.

3. The Amended Final Decision issued on November 6, 2006, requires that the respondent maintain two fund accounts. The Irrevocable Fund must be maintained with \$250,000 and the Claims Settlement Fund has a minimum of \$80,000 but which can have no less than \$60,000 after claims are settled. The respondent has sixty (60) days to replenish funds in the Claims Settlement Fund. The Irrevocable Fund does not have a replenishment date.

4. Both of the accounts the respondent is required to maintain do not allow withdrawals without written authorization from the Department of Transportation. Since the inception of these accounts, the respondent has never received written authorization from the Department for withdrawals from these accounts.

5. The respondent failed to properly fund the Irrevocable Fund for 842 days. There were 31 withdrawals without written permission from the Department on this account.

6. The respondent failed to fund the Settlement Fund properly for a total of 717 days. The respondent did not reach the \$80,000 minimum in the Settlement Fund from its inception in 2006 until November 14, 2008. There were 50 withdrawals from the fund without written permission from the Department.

7. During the time the respondent was not properly funding these two accounts, the respondent was attempting to refinance its company.

8. The respondent never contacted the Department to change the terms of its self insurance when it could not properly fund the two accounts.

9. The respondent was required to submit the bank statement for the prior month by the 15th of the following month. The bank statements were sent to the Department months later than they were supposed to be submitted.

10. The Irrevocable Fund was required to have a minimum balance of \$250,000 when it was fully funded. At one point the account had a low balance of \$57,000.

11. The Settlement Account Fund was to maintain a balance between \$60,000 and \$80,000. At one point this account had a low balance of \$6.35.

III. DEPARTMENT ANALYSIS AND CONCLUSIONS OF LAW

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in taxicab service in the State of Connecticut accordance with Connecticut General Statutes Section 13b-96, as amended. Pursuant to Connecticut General Statutes Section 14-29, the Department may issue a Certificate of Financial Responsibility for a company to become self insured. Likewise, if the company does not follow all of the requirements for self insurance, the Department may revoke such certificate.

Docket Numbers 0511-SI-14-T, 0602-SI-04-T and 0608-SI-68-T issued on November 6, 2006 require the respondent to have a minimum balance of \$250,000 in the Irrevocable Fund and \$80,000 in the Claims Settlement Fund. The evidence shows that on numerous occasions, from the time the respondent first received the approval to self insure in 2006 to November 2008, it knowingly under funded these two accounts.

A review of the Irrevocable Fund indicates that there were numerous violations in the account such that it was not funded to the proper amount starting June 2006 and ending November 2008 totaling 842 days. This account was under funded almost the entire time from its inception in May 2006 to November 2008. There were also 31 withdrawals from the account during this time without written permission from the Department.

With regard to the Claims Settlement Fund, there were 717 days when this account was not in compliance. The respondent never received written permission from the Department to make withdrawals from the account on 50 occasions. The Settlement Fund never reached its \$80,000 minimum balance from its inception in 2006 until November 2008.

It is equally clear that the respondent was not sending monthly bank account statements to the Department on the 15th of each month as required. Many of the statements were sent months later than the due date and in conjunction with several previous months.

Mr. Henry testified that he notified Sheldon Lubin, an employee of the Department, that he was attempting to refinance the business and was unable to fully fund these accounts. He stated that Mr. Lubin told him his first obligation was to handle the claims. Although Mr. Henry claims that he does not want to blame Mr. Lubin for the under funding, he spent a lot of time doing just that. Mr. Henry often stated on the record that Mr. Lubin knew the accounts were not being funded properly in an attempt to mitigate his own failure to comply with the Department's requirements for self insurance.

Mr. Lubin had no obligation to inform the respondent of its responsibilities with regard to these accounts. Mr. Henry was well aware that his two accounts were under funded. The respondent was given the opportunity over several months to correct the deficiency and failed to do so.

The respondent has asked the Department to take administrative notice of the final decision in the Transportation General case, assigned Docket Numbers 0402-C-05-T, 0402-C-06-T and 0402-C-07-T issued on August 24, 2004. In that decision, the respondent received a large civil penalty for under funding settlement accounts. In the present case, the respondent committed more egregious violations including being out of compliance for both funds the majority of the time, knowing it was out of compliance and allowing one of its accounts get down to a balance as low as \$6.35. The Department is under no obligation to continue to allow the respondent to abuse the opportunity it has been given to have self insurance.

The decisions authorizing the respondent the opportunity for self insurance are clearly written. From almost the start, the respondent did not follow the protocol established. Allowing a company to utilize self insurance is at the discretion of the Department, it is not an automatic right. It is hard to imagine how the respondent could have been more out of compliance with the requirements for these two funds. The respondent has shown a complete disregard of the requirements for self insurance and therefore must revert back to operating without self insurance. Under funding these two accounts has exposed the public to potential risk and the Department will not sanction such behavior.

Based on the evidence provided, including the severity of the violations and the respondent failure to accept full responsibility for the failure to properly fund the accounts, the respondent's Certificate of Financial Responsibility is hereby revoked.

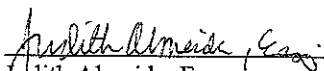
IV. ORDER

Based on the above, the respondent's Certificate of Financial Responsibility issued in Docket Number 0511-SI-14-T, 0602-SI-04-T and 0608-SI-68-T is hereby revoked with the revocation to take effect thirty (30) days from the date of this final decision. The respondent is to immediately purchase insurance to cover the areas where it was formerly self insured and report back to the Department within thirty (30) days of the date of this decision as to what insurance company will be handling all its claims. Failure to notify the Department of its insurance carrier within thirty days from the date of this decision will subject the respondent to revocation, suspension or the implementation of a civil penalty.

This final decision constitutes notice in accordance with Connecticut General Statutes Section 4-182(c).

Dated at Newington, Connecticut on this the 2nd day of July 2009.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida, Esq.
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration