

BOARD REPORT
CITY OF LOS ANGELES
DEPARTMENT OF TRANSPORTATION

Date: April 18, 2019

To: Board of Taxicab Commissioners

From: *fa* Seleta J. Reynolds, General Manager *ES*

Subject: **APPEAL CONCERNING THE DEPARTMENT'S RECOMMENDATION TO REVOKE ALL SLOTS OWNED AND/OR OPERATED BY SIMON GEVORKIAN**

RECOMMENDATIONS

That your Board:

- a. **FIND** that on June 21, 2018, the Department submitted to the Board of Taxicab Commissioners (Board) a recommendation to revoke all taxicab slots owned and/or operated by Simon Gevorkian (Simon) for multiple violations of Board Order 471 and California Business and Professions Code 12510(a)(5).
- b. **DENY** Simon's appeal and uphold the Department's recommendation to revoke all taxicab slots owned and/or operated by Simon.
- c. **ADVISE** the Department that Simon shall not be granted authorization to operate any form of vehicle-for-hire in the City and/or County of Los Angeles.
- d. **INFORM** Simon he will never be eligible to own or operate any vehicle-for-hire in the City and/or County of Los Angeles.

INITIATED BY

On October 18, 2018, Simon Gevorkian, 5336 Reseda Blvd, Tarzana, California 91356, appealed the Department's recommendation to revoke all of his taxicab slots by filing a written "Request for Hearing Before the Board of Taxicab Commissioners" (Attachment 1) pursuant to Board Order No. 530, Sec. F.

DISCUSSION

Simon is the Investor/Shareholder for L.A. Checker Cab Cooperative, Inc. (Checker) taxicab slots number 3446, 3452, 3459, 3464, 3481, 3485, 3526, 3605, 3607, 3628 and 3634. He is also the Investor/shareholder of three Yellow Cab slots number; 6037, 6051, and 6591. He was also the Investor Shareholder for two Checker taxicab slots number, 3734 and 3536, which were terminated on 06/27/2017 and 3/20/2018, due to the LADOT meter tampering investigation.

On September 10, 2017, the Department received a complaint of overcharging involving Checker Cab number 3536. The amount of the overcharge led Department investigators to conclude that the taxicab might have a pulse device installed. The Department requested that a meter installation technician inspect cab number 3536 on September 20, 2017. The technician discovered a pulse device attached to

the wiring harness of the taxicab. The pulse device and the decals were removed from the vehicle, resulting in its being placed immediately out-of-service. At the time of the overcharge and the resulting inspection, Simon was the Investor/Shareholder for cab number 3536. Simon has been permanently banned from any further ownership of this taxicab slot.

The Los Angeles Department of Transportation (LADOT) conducted a taxicab inspection on March 28, 2018, at Los Angeles International Airport (LAX). This inspection involved taking random vehicles to a designated taxicab meter shop for examination of the meter. Fourteen taxis in all were inspected. Checker cab number 3605 was one of the taxis selected for inspection. During the inspection Checker cab 3605 was found to have a pulse device installed. Simon was the Investor/Shareholder taxicab 3605. The meter and LADOT decals were immediately removed and the vehicle was placed out of service.

Checker cab number 3485 was also inspected. Simon is also the Investor/Shareholder for this taxicab slot. Cab number 3485 was taken to meter shop where the technician observed wires hanging from the dash assembly behind the glove compartment. This area also contains the wiring harness for the meter, and where a pulse device could have been installed and attached to the meter's wiring harness. The wires had been snipped indicating that whatever device was attached to them had been removed.

Simon attended an Administrative Hearing on August 21, 2018. Simon stated that he does not inspect the cabs himself but instead his father Suren performs the inspections. Simon was unable to supply the last inspection date for his taxicabs. Simon stated that he did not know about the pulse devices until the inspection that occurred on March 28, 2018.

Simon stated later in the Hearing that he now inspects his taxicabs and all of his cabs go to "his" body shop whenever they need repairs. Simon is also a member of Checker's Board and has recommended a zero tolerance policy toward drivers who have these devices installed and that Checker, as a company, monitor the meter situation. He did not indicate if such monitoring should also involve the Investor/Shareholders or if the owners (Investor/Shareholders) themselves should be held responsible for ensuring that their taxicabs are in compliance with the Department's rules and regulations. He has also recommended the use of a soft taximeter¹. Simon did not submit any proof of his claim that he now inspects all of his taxicabs himself or how in-depth the inspections he conducted were. It was the conclusion of the Hearing Officer that the violation had occurred and a notice of its findings were mailed to Simon Gevorkian on October 5, 2018. (Attachment 2)

The Department's investigation and inspection on March 28, 2018, found that multiple taxicabs operated by Simon and his family were found to either have pulse devices installed, or had hanging wires where such a device could have been hastily removed prior to arriving at LAX for the inspection.

Operating a taxicab with a meter that has been equipped with such devices is a violation of multiple sections of Ordinance 181423 as well as a violation of Section 12510(a)(5) of the Business and Professions Code and Board Order 471, Rules 201 and 429.

PROPOSED DISCIPLINARY ACTION

It is staff's recommendation to deny Simon's appeal; upholding the Department's original recommendation to permanently revoke all of the taxicab slots owned and/or operated by Simon and

¹ A "soft meter" is a smartphone or tablet equipped with a touchscreen that a taxi operator uses as a taximeter. Soft meters may use technology such as GPS or on-board diagnostics to calculate distance rates.

instruct the Department that Simon can never be eligible to operate any form of vehicle-for-hire service within the City and/or County of Los Angeles.

Applicable Regulations

Board Order 471, Rule 201 states:

“Each taxicab operator and its management, employees, lease drivers, each vehicle permittee, each driver, and each member’s lease drivers and employees are individually and jointly responsible for complying with rules and regulations of the Board; all sections of the LAMC, the Los Angeles Administrative Code and other ordinances or the City; any rule or regulation of the Department of Airports; and any section of a State Statute or Administrative Code relating to the operation of a taxicab or a vehicle for hire. Through adjudication, only one taxicab rule shall be applied for a specific infraction when Rule 201 is cited in addition to another taxicab rule for the same offense.”

Board Order 471, Rule 402 states:

“Each taxicab operator or vehicle permittee shall equip each taxicab with

A State approved taximeter, currently certified for the specific vehicle in which it is installed and with unbroken State inspection seals affixed. All replacement meters shall be certified by a State sealer, registered with the Los Angeles County Department of Weights and Measures, and inspected by the Department within seven calendar days after the vehicle is placed into service with a new or replacement meter.”

Board Order 471, Rule 420 states:

“Each taxicab operator and vehicle permittee shall maintain the taximeter in good working condition at all times.”

Board Order 471, Rule 429 states:

“The taxicab is found to contain a rate other than authorized. The meter shall have installed only the approved rates and extra charges. All mechanisms, devices and/or electronic programs attached, installed or used in connection with the meter shall not facilitate the perpetration of fraud. No schedule of rates contained in the taximeter may be higher than those authorized for the City of Los Angeles unless authorized by the Board of Taxicab Commissioners.”

Board Order 471, Rule 906 states:

“A driver or taxicab operator may appeal the decision of the Department by filing with the Department an Appeal Request Form within three working days of the Department hearing. Such Appeal Form shall present the basis for protesting the decision of the Department.”

California Business and Professions Code §12510(a)(5) states:

“Any person who by himself or herself, or through or for another, does any of the following is guilty of a misdemeanor:

- (1) Sells or uses any device or instrument to be used or calculated to falsify any weight or

measure.”

Franchise Ordinance number 181423, Section 1.0 DEFINITIONS:

CO-OPERATIVE, ASSOCIATION or MEMBERSHIP: “An independent taxicab enterprise or organization owned and operated by its Members for the financial benefit of its Members. Each authorized taxicab fleet slot correlates to a share and/or ownership in the Membership.”

INVESTOR/SHAREHOLDER: “A Member of Grantee who does not manage or control taxicabs in Grantee.”

MEMBER: “An individual person or Subchapter S corporation, as defined in the United States Internal Revenue Code Section 1361, who owns one or more taxicabs and/or shares, but not more than the maximum number allowed by this ordinance, in Grantee. Only those individuals applying for Investor/Shareholder membership status may apply as a Subchapter S corporation.”

Franchise Ordinance #181423, Section 402 “Operations and Service – General:

- (a) “All vehicles, equipment and appurtenances used under this Franchise shall be operated and maintained in accordance with all applicable Federal and State laws, ordinances of this City and order of the Board. Grantee shall be responsible for the compliance of its Members and drivers with all such laws, ordinances, rules and orders.”
- (b) “The number of taxicabs operated pursuant to this Franchise, the manner and time of all operations, the transportation service provided, and the rates or fares charged, shall at all times conform to such regulations as shall from time to time be fixed or prescribed by the City and/or Board,”

Franchise Ordinance #181423, Section 403 “Operations and Service – Taxicabs

- (c) “All taxicabs used by the Grantee within the City shall be operated under and pursuant to the provisions of this Franchise and Board requirements and not otherwise. Each such taxicab shall be equipped with City decals and/or equivalent City identification as ordered by the Board by resolution. Grantee shall not allow any taxicab to be driver which is in violation of the terms of this Franchise or any Board requirements.”

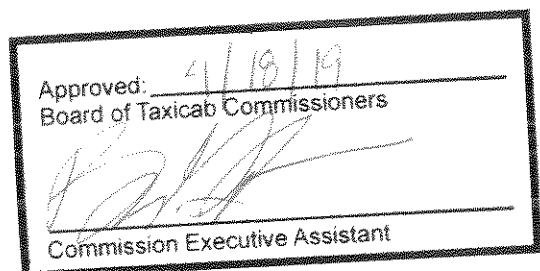
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“A driver or taxicab operator may appeal the decision of the Department by filing with the Department an Appeal Request Form within three working days of the Department hearing. Such Appeal Form shall present the basis for protesting the decision of the Department.”

Appellant’s Statement

Please see Attachment 1 for the appellant’s statement.

B19-004
JMM/pab



Dear Patricia A. Barker,

I have received your letter of 10/05/2018 via regular mail, postmarked 10/09/2018, today 10/11/2018. I did not receive a fax of this letter. The letter on its face is inaccurate in terms of the date of mailing and the absence of a fax. This is not a new practice on your part, and makes the notice and notice periods in your letter ambiguous to say the least.

There was a hearing on 08/23/2018, you asked me questions that you did receive the answers to. That was not an administrative hearing, that was an interview and fact-finding session for you. The administrative hearing process has not been conducted or exhausted.

Furthermore, your letter contains numerous inaccuracies legally and factually. While the rules cited authorize an "out of service" and "removal of seals" if a taximeter is found to contain a rate other than authorized, there were no more than 2-3 taxis inspected under circumstances which were materially flawed, which the department contended met the "out of service" and "removal of seals" standard, which is disputed. There is no evidence that any other taxis had alleged defective meters or devices. There is absolutely no factual or legal basis for the proposed actions to "revoke" ALL 269 seals where there were no issues with meters in any other taxicabs. In short, 266 of the 269 taxis did not have any alleged defective meters or devices. There is no basis to "revoke" any of the other 266 seals under these Rules.

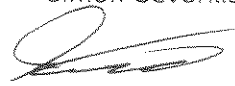
Further, the Board of Taxicab Commissioners does not have the authority to revoke the Franchise of LA Checker Cab Cooperative, which is what you are proposing (since there were only 2-3 taxicabs with an alleged questioned meter, not all 269 taxis). This determination or recommendation is illegal and should not be the subject of any actions against me or LA Checker Cab, and it should not require us to appeal or provide any further actions. I should not be required to appeal an action which is not authorized by law, rule or regulation.

Finally, your letter of October 5, 2018, refers to an appeal to the "Board of Transportation Commissioners" which is incorrect, and presumably should have referred to the "Board of Taxicab Commissioners"

For all of the reasons stated above, the assessment and action in your letter of 10/05/2018, MUST BE WITHDRAWN, AND/OR A NEW ASSESSMENT AND ACTION SHOULD BE ISSUED.

IF IT THE ASSESSMENT ACTION IS NOT IMMEDIATELY WITHDRAWN, THEN I, SIMON GEVORKIAN, HAVE NO CHOICE BUT TO APPEAL THIS ACTION. PLEASE PROVIDE ME VIA EMAIL WITH THE FORMS OF APPEAL WHICH IS REQUIRED, AND IT WILL BE SUBMITTED IMMEDIATELY. BECAUSE WE DO NOT HAVE THAT FORM NOW, I AM HEREBY ASSERTING AN APPEAL ON BEHALF OF MYSELF BY THIS LETTER, FOR ALL OF THE REASONS STATED HEREIN.

PLEASE ALSO BE ADVISED THAT I RESERVE THE RIGHT TO SEEK AN IMMEDIATE RESTRAINING ORDER IN THE SUPERIOR COURT TO BLOCK THE EFFECTIVENESS OF YOUR LETTER/ASSESSMENT OF 10/05/2018 BASED UPON THE REASONS STATED ABOVE. - Simon Gevorkian

 10/17/18

RECEIVED OCT 18 2018

ATTACHMENT 1

CITY OF LOS ANGELES
CALIFORNIA

Seleta J. Reynolds
GENERAL MANAGER



ERIC GARCETTI
MAYOR

DEPARTMENT OF TRANSPORTATION
100 South Main Street, 10th Floor
Los Angeles, California 90012
(213) 972-8470
FAX (213) 972-8410

TAXICAB & FRANCHISE REGULATIONS
(213)928-9600
FAX (866)316-8169

October 5, 2018

REGULAR MAIL AND FAX

Simon Gevorkian
5336 Reseda Blvd
Tarzana, CA 91356

SUBJECT: ASSESSMENT OF HEARING INVESTIGATION FOR VIOLATION OF BOARD ORDER 471, RULE 429 AND §12510 (A) (5) B & P REGARDING HEARING NOTICE 064738

On August 21, 2018, the Department conducted an administrative hearing regarding the potential revocation of your Investor/Shareholder status for violation of Board Order 471, Rule 429 (meter tampering by use of a pulse device) and Business & Professions Code §12510(a)(5). Additional investigation was done.

It has been determined that the following violations did, in fact, occur and there has been insufficient proof submitted to satisfy the Department that adequate procedures have been implemented to prevent a repetition.

Board Order 471, Rule 429 states:

"Subject to right to appeal as provided in Section 900 herein, for Rules 427 through 432, each taxicab operator and vehicle permittee shall, upon request, take the taxicab immediately out of service and make the taxicab immediately available to the Department and the Department shall remove the City Decals when:

429. The taximeter is found to contain a rate other than authorized. The meter shall have installed only the approved rates and extra charges. All mechanisms, devices and/or electronic programs attached, installed or used in connection with the meter shall not facilitate the perpetration of fraud. No schedule of rates contained in the taximeter may be higher than those authorized for the City of Los Angeles unless authorized by the Board of Taxicab Commissioners."

§12510(A) (5) of the California Business and Professions Code states:

- (a) Any person, who by himself or herself, or through or for another, does any of the following is guilty of a misdemeanor:
- (5) Sells or uses any device or instrument to be used or calculated to falsify any weight or measure.

It is the determination of the administrative hearing officer that the recommendation of the Department to instruct the Board of Taxicab Commissioners to revoke all two hundred sixty nine taxicab slots held by L. A. Checker Cab Cooperative, Inc. be revoked, including the slots owned or operated by you.



Simon Gevorkian

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October 5, 2018

You may appeal this assessment to the Board of Transportation Commissioners by filing an Appeal Request form with the Department within three working days of your receipt of this notification. **Address your remittance to: Department of Transportation, Franchise Regulation Division, 100 S. Main Street, Room 01-080, Los Angeles, California 90012, Attention: Patricia A. Barker, Senior Transportation Investigator.**

If you have any questions, you may contact me at Pat.Barker@lacity.org.

Sincerely,

A handwritten signature in black ink that reads "Patricia A. Barker". The signature is written in a cursive style with a large, looping initial "P".

Patricia A. Barker, Senior Transportation Investigator
Taxicab and Regulation
Enforcement and Inspection Division

c: LADOT, Jarvis Murray, L.A. Checker Cab Cooperative, Inc.

LE18-062.pab