
PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 26, 2016

Agenda ID #14849
Ratesetting

TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-340:

This is the draft Resolution of Administrative Law Judge (ALJ) Richard Smith resolving the Appeal of Citation No. FC-682 of Joseph John Santalla, dba Shuttle It. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding on the parties.

You may serve comments on the draft resolution. Opening comments shall be served no later than May 16, 2016, and reply comments shall be served no later than May 23, 2016. Service is required on all persons on the attached service list. Comments shall be served consistent with the requirements of Pub. Util. Code § 311(g) and Rule 14.5 of the Rules of Practice and Procedure.

Finally, comments must be served separately on Administrative Law Judge Smith at rs1@cpuc.ca.gov, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ KAREN V.CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC:lil

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-340
Administrative Law Judge Division

RESOLUTION

RESOLUTION ALJ-340. Resolves the Appeal PSG-3831 of Citation No. FC-682 of Joseph John Santalla, dba Shuttle It (TCP 28677-A)

SUMMARY

This resolution denies the appeal of Citation No. FC-682 issued to Joseph John Santalla, dba Shuttle It (Santalla) by the California Public Utilities Commission's (Commission) Safety and Enforcement Division on December 5, 2014. Citation No. FC-682 imposed a fine of \$1,000 for failure to provide access to records in violation of Public Utilities Code §§ 5389 and 5381 and General Order 157-D, part 6.01.

Santalla shut down operations and is no longer operating in this state. Santalla's charter-party carrier permit (TCP 28677-A, issued June 5, 2012) was voluntarily revoked on October 30, 2014. This resolution denies the appeal but suspends the \$1000 fine, on the condition that, if Santalla reapplies to this Commission for a charter-party carrier permit or other operating authority as "Shuttle It" or as any other company, or as an individual, he must pay the \$1,000 fine in addition to any other necessary application fees before obtaining another permit to operate. In addition, if Santalla is found to be operating without the required Commission authority, the \$1,000 fine must be paid in addition to any other sanctions imposed by the Commission for operating without authority. Citation No. FC-682 is affirmed as conditioned above.

AUTHORITY FOR CITATION ISSUANCE

The California Public Utilities Commission (Commission) regulates charter-party carriers of passengers primarily pursuant to the Passenger Charter-Party Carriers' Act (Pub. Util. Code § 5351, et seq.).¹ Pursuant to Resolution (Res.) ALJ-187, issued by the

¹ Unless otherwise indicated, all statutory references are to the Public Utilities Code.

Commission on September 22, 2005, the Commission's Safety and Enforcement Division (SED) is authorized to issue citations to various classes of transportation carriers for violation of the Public Utilities Code and/or Commission orders.² A carrier issued such a citation may accept the fine imposed or contest it through a process of appeal under Res. ALJ-187.

THE CITATION AND APPEAL

SED issued Citation No. FC-682 on December 5, 2014, citing Joe Santalla (aka Joseph John Santalla), an individual doing business as Shuttle It (Santalla), and imposing a fine of \$1,000 pursuant to Pub. Util. Code § 5378 for failure to provide access to records in violation of Pub. Util. Code §§ 5389 and 5381 and General Order 157-D, part 6.01.

Santalla submitted an undated Notice of Appeal of Citation No. FC-682 to SED pursuant to procedures established in Res. ALJ-187. SED forwarded this Notice of Appeal to the Administrative Law Judge Division on January 7, 2015, together with a copy of the citation and Case Summary.³ Because Citation No. FC-682 was issued prior to the effectiveness of Res. ALJ-299, the appeal was not docketed as a formal proceeding before the Commission, and is resolved in accordance with the procedures in effect prior to the adoption of Res. ALJ-299.⁴

FACTUAL BACKGROUND

As stated above, SED issued Citation No. FC-682 on December 5, 2014, citing Santalla, and imposing a fine of \$1,000 for failure to provide access to records in violation of Pub. Util. Code §§ 5389 and 5381 and General Order 157-D, part 6.01.

Specifically, SED alleges in its Case Summary that a Commission investigator scheduled a record review with Santalla on two occasions. The Commission's investigator cancelled the first appointment on September 16, 2014, due to a scheduling conflict. A

² Res. ALJ-187 confers authority on the Consumer Protection and Safety Division, now known as the Safety and Enforcement Division, to issue citations. Res. ALJ-187 adopted procedures for appealing citations issued to household goods carriers, charter party carriers, and passenger stage corporations.

³ SED's January 7, 2015 e-mail message states that the appeal was received "yesterday" (i.e., January 6, 2015). Res. ALJ-187, paragraph 2 provides that respondent shall serve a Notice of Appeal upon SED, if respondent so elects, no later than 20 days after the date of service of the citation. However, paragraph 2 also permits SED to grant one additional extension at the request of respondent. This citation is undated but January 6, 2015, is 31 days after its issuance. However, SED did not argue that the appeal was untimely. We will therefore consider the appeal timely and that SED granted Santalla a one-time extension for its submission.

⁴ Res. ALJ-299 adopted a pilot program, effective January 1, 2015, which requires (among other things) that citation appeals to be filed with the Docket Office.

second records review was scheduled at Santalla's home address on October 29, 2014, and an audit letter scheduling the appointment was e-mailed to Santalla's e-mail address and also sent by US mail on October 20, 2014.

SED further alleges that Santalla was not at his address for the scheduled appointment time of October 29, did not respond to the letter or e-mail, and made no further effort to contact the SED investigator or to provide documents. SED included copies of letters scheduling the appointments in Attachment 1 to its Case Summary. The Case Summary also indicates that Santalla's charter-party carrier permit (TCP 28677-A, issued June 5, 2012) was revoked on October 30, 2014.

Santalla served SED an undated Notice of Appeal, which SED forwarded to the Administrative Law Judge Division on January 7, 2015, together with a copy of the citation and Case Summary. Santalla alleges as his grounds for appeal that (1) the investigator failed to provide proper notice for the cancellation of the September 16, 2014 appointment, (2) that the Commission was sent paperwork for voluntary revocation of his operating authority prior to the second appointment on October 29, 2014, removing the requirement of access, and (3) although there was someone to receive the investigator on October 29, 2014, the investigator did not make contact.

Santalla also provided a more detailed statement elaborating on these allegations. In the detailed statement, Santalla states that he shut down operations and sought voluntary revocation of his operating authority. Santalla states that the Commission entered the permit revocation on October 30, 2014, but he believes the Commission received his request for revocation prior to October 29, 2014, the time of the rescheduled appointment.

FURTHER OPPORTUNITY FOR PARTIES TO COMMENT

The assigned Administrative Law Judge issued a ruling on March 18, 2016, directing that the parties to respond to the following questions no later than Monday, April 11, 2016, and that they may reply to each other's responses no later than April 25, 2016.

1. In light of Santalla's statement that he requested revocation of his operating authority before the October 29, 2014 rescheduled meeting, and his operating authority has been revoked as of October 30, 2014, state whether you believe this citation appeal can be resolved as follows:

That the \$1000 fine be affirmed but suspended, on the condition that, if Santalla reapplies to this Commission for a charter-party carrier permit or other operating authority as "Shuttle It" or as any other company, or as an individual, he must pay the \$1,000 fine in

- addition to any other necessary application fees before obtaining another permit to operate. In addition, if Santalla is found to be operating without the required Commission authority, the \$1,000 fine must be paid in addition to any other sanctions imposed by the Commission for operating without authority.
2. If you do not agree that this citation appeal can be resolved as described in Question 1, state whether the Commission can resolve this citation appeal based on the existing record (the Citation, the SED Case Summary and attachments, and Santalla's Notice of Appeal) or whether a hearing is necessary. If you believe a hearing is necessary, identify the disputed issues of material fact that would be addressed at the hearing, and which issues are necessary to resolve this citation appeal.⁵ If you believe that only further briefing is necessary, describe the further briefing you believe is necessary and confirm that there are no disputed issues of material fact requiring hearings.

The ruling further advised that while this appeal is pending, neither party shall engage in an ex parte communication pursuant to Rule 8.1 of the Commission's Rules of Practice and Procedure, with a Commissioner, a Commissioner's advisor, or a Judge except for procedural or scheduling purposes.

No party served a response or reply to the Administrative Law Judge's ruling. The matter is therefore submitted as of April 25, 2016.⁶

DISCUSSION

Given that no party objected to the resolution of this matter as set forth in the Administrative Law Judge's March 18, 2016 ruling, we believe that the outcome proposed by the March 18 ruling is reasonable. SED alleges that Santalla failed to provide access to records in violation of Pub. Util. Code § § 5389 and 5381, and fined Santalla \$1,000 for this violation. A \$1,000 fine for this failure to comply is reasonable pursuant to § 5378, which permits penalties up to \$7,500. However, Santalla voluntarily shut down operations and is no longer operating in this state, and sought voluntary

⁵ The ruling further advised that respondents may be represented at hearing by an attorney or other representative, but such representation shall be at the respondent's sole expense, and that respondents may also order a transcript of the hearing but must pay the cost of the transcript in accordance with the Commission's usual procedures.

⁶ On March 19, 2016, Santalla served the following e-mail on the Commission typist who served the Administrative Law Judge's March 18 ruling, but did not copy the assigned Administrative Law Judge or SED. The note stated "Now your finally making sense of your agents lies. When I re-open it will be in another state[.] Thanks for realizing your mistake[.] Joe Santalla"

revocation his operating authority. Santalla's charter-party carrier permit was revoked on October 30, 2014.

Therefore, we deny Santalla's appeal but suspend the \$1000 fine on the condition that, if Santalla reapplies to this Commission for a charter-party carrier permit or other operating authority as "Shuttle It" or as any other company, or as an individual, he must pay the \$1,000 fine in addition to any other necessary application fees before obtaining another permit to operate. In addition, if Santalla is found to be operating without the required Commission authority, the \$1,000 fine must be paid in addition to any other sanctions imposed by the Commission for operating without authority. Citation No. FC-682 is affirmed as conditioned above.

SAFETY

The Commission has broad authority to regulate charter-party carriers, particularly with regard to safety concerns. The statutory schemes under which this citation was issued for failure to provide access to a charter-party carrier's records are intended to secure the safety of charter-party carrier passengers.

COMMENTS

Pub. Util. Code § 311(g)(1) and Rule 14.5 of the Commission's Rules of Practice and Procedure require that a draft resolution be served on all parties, and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the resolution. A draft of today's resolution was served on the interested parties on _____. Comments were received on _____ by _____.

ASSIGNMENT OF PROCEEDING

Administrative Law Judge Douglas Long was initially assigned this appeal. Judge Long retired and the matter was reassigned in 2016 to Assistant Chief Administrative Law Judge Richard Smith.

FINDINGS

1. SED cited Santalla for failure to provide access to records in violation of Pub. Util. Code § 5389 and 5381 and fined Santalla \$1,000 for this failure to comply.
2. A \$1,000 fine for failure to provide access to records in violation of Pub. Util. Code § 5389 and 5381 is reasonable.

3. Santalla states he shut down operations and is no longer operating in this state. In October 2014, Santalla requested that his operating authority be revoked.
4. Santalla's charter-party carrier permit (TCP 28677-A, issued June 5, 2012) was revoked on October 30, 2014.
5. No party responded or replied to the March 18, 2016 Administrative Law Judge ruling proposing a conditional affirmation of the citation.

THEREFORE, IT IS ORDERED that:

1. Citation No. FC-682 issued to Joseph John Santalla, dba Shuttle It (TCP 28677-A) (Santalla) by the Safety and Enforcement Division on December 5, 2014, for failure to provide access to records in violation of Public Utilities Code §§ 5389 and 5381 and General Order 157-D, part 6.01, is affirmed.
2. The \$1000 fine set forth in Citation No. FC-682 is suspended, on the condition that, if Joseph John Santalla, dba Shuttle It (TCP 28677-A) (Santalla) reapplies to this Commission for a charter-party carrier permit or other operating authority as "Shuttle It" or as any other company, or as an individual, he must pay the \$1,000 fine in addition to any other necessary application fees before obtaining another permit to operate. If Santalla is found to be operating without the required Commission authority, the \$1,000 fine must be paid in addition to any other sanctions imposed by the Commission for operating without authority.
3. This proceeding is closed.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, 2016, the following Commissioners voting favorably thereon:

Timothy J. Sullivan
Executive Director

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.

SERVICE LIST
APPEAL OF CITATION #FC-682
FILE 3 TCP 28677-A; CASE #PSG-3831

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FILE 3 TCP 28677-A; CASE #PSG-3831

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