

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-256
Administrative Law Judge Division
September 23, 2010

RESOLUTION

RESOLUTION ALJ-256 Affirming Citation FC-366 issued to Steve Shawn Won, an individual doing business as Allstar Limousine under Permit No. TCP22722

SUMMARY

This Resolution resolves the appeal of Field Citation 366 (FC-366), issued to Steven Shawn Won, an individual doing business as AllStar Limousine (Steven Won)¹ by the Commission's Consumer Protection and Safety Division (CPSD) on February 22, 2010. FC-366 was issued to Steven Won with a fine in the amount of \$4,000.00 for 41 counts of violations of the Public Utilities Code, as well as violations of the Commission's General Orders 115-F and 157-D, during the period June 1, 2009 through October 9, 2009.

Pursuant to Resolution ALJ-187, issued by the Commission on September 22, 2005, CPSD is authorized to issue citations to various classes of transportation carriers for violation of the Public Utilities Code and/or Commission orders. In turn, a carrier issued such a citation may accept the fine imposed or contest it through a process of appeal. The procedures governing the appeal of CPSD's citations are set forth in Resolution ALJ-187.

An evidentiary hearing was held in San Francisco on July 1, 2010 and the matter was submitted on July 8, 2010. Based on the record, we find that in addition to the violations contained in the field citation, Steven Won also violated Rule 1.1 of the Commission's *Rules of Practice and Procedure* by (1) offering testimony at hearing that contained false statements of fact and (2) attempting to mislead the Commission and its staff by presenting a different vehicle than the one at issue for inspection on July 6, 2010. Therefore, we affirm FC-366 on all counts.

¹ Note here that Won is referred to as Steve and Steven in the supporting documents.

COMMENTS

Public Utilities Code Section 311(g)(1) requires 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 distributed for comment to Steven Won and the Consumer Protection and Safety Division. No comments were filed.

FINDINGS OF FACT

1. Steven Won was contacted by CPSD regarding FC-366 and stated that he did not want to meet to discuss the citation and requested that CPSD mail the citation to him. The citation and cover letter signed by Cindy McReynolds were mailed on February 22, 2010, in a certified mailing. The package was returned to CPSD because it was refused by the addressee and then resent via regular mail around February 26, 2010.² Steven Won signed and returned a notice of appeal of FC-366 on March 10, 2010.
2. CPSD presented at hearing a prima facie case through the testimony of Associate Transportation Representative Joe Iljas and Exhibits 1-12 and late-filed Exhibit 15 to support violations of the following sections of the Public Utilities Code (PUC) and Commission General Order (GO) by Steven Won during the period June 1, 2009 through October 9, 2009:³
 - (1) Operated as a charter party carrier after suspension of the authority (PUC section 5379). **[3 counts]**; and
 - (2) Operated outside the scope of the authority (PUC section 5371). **[1 count]**; and
 - (3) Operated one vehicle without the required liability insurance coverage (PUC section 5387 and GO 115-F). **[1 count]**; and
 - (4) Engaged two (2) employee-drivers without evidence of workers' compensation insurance coverage in effect and on file with the Commission (PUC section 5378.1) **[2 counts]**; and

² July 1, 2010 Hearing Transcript (Transcript) at 5.

³ We do not cite to Exhibits 13 and 14 sponsored by CPSD. Exhibit 13 shows that Steven Won's permit was already revoked on May 27, 2010 for failure to pay the annual fees for 2009 and, therefore, a further Order of Revocation was not issued on July 1, 2010. Based on Steven Won's objections at hearing, we find CPSD's Exhibit 14, internet postings on Yelp.com, lacks a proper foundation and, therefore, is given no weight.

- (5) Failed to enroll two (2) drivers in the Controlled Substance and Alcohol Testing Certification Program for Pre-Employment Testing (PUC sections 5374(a)(1)(I) and 5381, and GO 157-D, Part 10). **[2 counts]**; and
 - (6) Failed to enroll two (2) drivers in the Department of Motor Vehicles (DMV) Employer Pull Notice Program (EPN) (PUC sections 5374(a)(1)(D) and 5381, GO 157-D, Part 5.02, and California Vehicle Code section 1808.1). **[2 counts]**; and
 - (7) Advertised as a charter-party carrier of passengers after suspension of the permit (PUC section 5414.5). **[5 counts]**; and
 - (8) Advertised as a charter-party carrier of passengers with vehicles outside the scope of the operating authority (PUC section 5414.5). **[5 counts]**; and
 - (9) Failed to maintain a current equipment list with the Commission (PUC section 5381, and GO 157-D, Part 4.01). **[1 count]**; and
 - (10) Failed to provide access to records and vehicles (PUC section 5381 and 5389 and GO 147-D, Part 6.01). **[3 counts]**; and
 - (11) Failed to include the required information on the waybills (PUC section 5381.5 and GO 157-D, Part 3.01). **[16 counts]**.
3. CPSD supported the level of the fine, \$4,000.00, through the testimony of Supervising Investigator Suong Le.⁴
 4. Steven Won's testimony at hearing that the driver's signature in Exhibit 6 is his rather than an employee's, is contradicted by Steven Won's consistent and noticeably different signature on the Notice of Appeal, a September 11, 2009 Terminal Inspection Fee Report (Exhibit 4), a January 3, 2008 Citation Compliance Agreement (Exhibit 9) and a signed check to the Commission, dated January 3, 2008 (Exhibit 9).
 5. Steven Won's testimony that Shannon Cooper was not an employee is contradicted by Exhibit 4 and his testimony that Ms. Cooper drove the limousine charter for the Marcotte party on August 29, 2009 and that he was paid in full for the charter.
 6. Steven Won's assertion that the Denali limousine used in the charter on August 9, 2009 is not the same vehicle as the Denali license number 4YKN836 registered in his name is contradicted by his testimony that he dispatched his own vehicle for the charter (Transcript at page 47) and the license number on the

⁴ Transcript at 41-45.

August 29, 2009 tow car receipt (Exhibit 4). Further damaging Steven Won's credibility is his failure to provide full access to CPSD for the vehicle inspection on July 6, 2010 and CPSD's finding that he presented for inspection a different vehicle than the one at issue (Exhibit 15).⁵

7. Steven Won's assertion that he never received written notice of his September 24, 2009 suspension is not supported by any collaborating evidence. CPSD did not have this mailing returned, and it appears that all other correspondence from CPSD to Won's address has been received.

CONCLUSIONS OF LAW

1. Steven Won violated Section 5371, 5374, 5378, 5379, 5381, 5381.5, 5387, 5389, and 5414 of the Public Utilities Code and General Orders 115-F and 157-D, as detailed in FC-366. These are serious public safety violations.
2. Steven Won violated Rule 1.1 of the Commission's *Rules of Practice and Procedure* by (1) offering testimony at hearing that contained false statements of fact and (2) attempting to mislead the Commission and its staff by presenting a different vehicle than the one at issue for inspection on July 6, 2010.
3. The level of fine imposed in FC-366 is reasonable and consistent with CPSD's policies.
4. Steven Won should pay a fine of \$4,000.00 in full within 30 days of this resolution. All checks should be made payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office, Room 3000, 505 Van Ness Avenue, San Francisco, California 94102. On the face of the check or money order should be written "For deposit to the General Fund per Resolution ALJ-256."
5. If Steven Won fails to pay the fine as provided herein, CPSD should take any and all action provided by law to recover the unpaid fine and ensure compliance with applicable statutes and Commission orders.

⁵ In addition, by failing to present his vehicle for a complete inspection, the actual seating capacity cannot be confirmed to be only 15 passengers, as asserted at hearing by Steven Won (Transcript at 46). The August 29, 2009 complaint lists a 16-passenger vehicle with a driver, which would require \$5,000,000 in liability insurance even though only 15 passengers were transported.

THEREFORE, IT IS ORDERED that:

1. Citation FC-366 is affirmed.
2. Appellant Steven Shawn Won, an individual doing business as Allstar Limousine under Permit TCP Number 22722-P, must pay a fine of \$4,000.00 in full within 30 days of this resolution. All checks must be made payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office, Room 3000, 505 Van Ness Avenue, San Francisco, California 94102. Steven Won must write on the face of the check or money order, "For deposit to the General Fund per Resolution ALJ-256."
3. If Steven Won fails to pay the fine as provided herein, CPSD shall take any and all action provided by law to recover the unpaid fine and ensure compliance with applicable statutes and Commission orders.
4. The appeal process for this citation 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 September 23, 2010, the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

John A. Bohn, being necessarily absent, did not participate.