

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the matter of staff's investigation into the operations of Harbor Breeze Corp., a California corporation, doing business as Harbor Breeze Yacht Charters and Cruises, and its President, Ralph Daniel Salas,

Applicants/Respondents.

**SETTLEMENT AGREEMENT**

The Parties to the Settlement Agreement ("Agreement") are as follows:

- Consumer Protection and Safety Division ("CPSD" or "Staff") of the California Public Utilities Commission ("CPUC")
- Harbor Breeze Corp. ("Harbor Breeze"), a California Corporation
- Ralph Daniel Salas, President of Harbor Breeze Corp.

**I. INTRODUCTION AND BACKGROUND**

Pursuant to Article 12 of the *Commission Rules of Practice and Procedure*, the Respondents named above and the CPSD hereby agree to settle the violations without having an Order Instituting Investigation or evidentiary hearing. A summary of the background is as follows:

- Staff began investigating Respondent Harbor Breeze in May 2006 after receiving complaints that Harbor Breeze conducted operations as a vessel common carrier ("VCC") without first obtaining a certificate of public convenience and necessity issued by this Commission to conduct such operation, in violation of Public Utilities Code Section 1007.

- Between May and September 2006, Staff conducted a review of Harbor Breeze's operations, which included interviews with Ralph Daniel Salas and his attorney, Mr. Neil Lerner, of Sands Lerner Professional Corporation.
- Staff's audit revealed that Harbor Breeze conducted for-hire operations without a valid VCC certificate. The violations are detailed fully in Staff's report that is attached as Attachment A.
- Following the completion of the audit, Staff met with Mr. Salas and Mr. Lerner on October 20, 2006. Staff discussed the violation found and informed them that CPSD is recommending to the Commission that a \$5,000 fine be imposed.
- On or about November 29, 2006, Mr. Lerner, (attorney for respondents) and Ms. Shek (attorney for CPSD) had a settlement discussion and came to an oral agreement on a Settlement proposal for the Commission.

In consideration of the mutual covenants contained in this Settlement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

## II. TERMS AND CONDITIONS

**2.1 Fines.** Respondents Harbor Breeze Corp and Ralph Daniel Salas agree jointly and severally to a fine of \$5,000. Upon the Commission's approval of this Settlement, these Respondents will pay the Commission as a fine the amount of \$2,500 and within 30 calendar days thereafter, pay the remaining balance of \$2,500. Payments must be made payable to the order of the Commission and delivered to CPSD Transportation Enforcement Supervisor, Suong T. Le, 505 Van Ness Ave, San Francisco, CA 94102.

**2.2 Permit.** Respondents may not advertise or otherwise hold themselves out to the public or engage in business as a public utility, vessel common carrier, pursuant to PUC section 211 *et seq.*, until the Commission has issued the Respondents a certificate of public convenience and necessity to operate as a vessel common carrier. CPSD does not object to the Commission granting Respondent's application (A. 06-05-011) as part of approval of this settlement, and nothing agreed to herein should be used as a basis for the application (A. 06-05-011) being denied.

**2.3 Compliance.** Respondents acknowledge receipt of the alleged violations contained in Staff's report, which has been served on Respondents. Without admitting the truth of the violations contained in Staff's report, but acknowledging that the violations set forth in Staff's report could serve as the basis for an Order Instituting Investigation or evidentiary hearing, Respondents take full responsibility for past violations of laws, rules and regulations governing vessel common carriers and agree to be in full compliance with these regulations, and all other applicable rules in the future.

### **III. DEFAULT AND REMEDIES**

3.1 If the Respondents violate or fail to comply with any provision of this Settlement, Commission rules and regulations, or any Commission judicial decision, CPSD will petition to initiate a Commission proceeding for purposes of, but not limited to, imposing fines and penalties pursuant to *Pub. Util. Code* § 2107.

### **IV. MISCELLANEOUS PROVISIONS**

4.1 The Parties agree that the Commission has primary jurisdiction over any interpretation, enforcement, or remedies pertaining to this Settlement, as indicated by California Constitution, Article XII, Section 8. No Party may bring an action pertaining to, related to or relying upon this Settlement in any local, state, or federal court or administrative agency without first having exhausted its administrative remedies at the Commission.

4.2 The Parties acknowledge that this Settlement is subject to approval by the Commission. As soon as practicable after all the Parties have signed this Settlement, CPSD will request Commission's approval. The Parties must furnish such additional information, documents, and/or testimony as the Commission may require in granting said Motion and adopting this Settlement.

4.3 The provisions of this Settlement are not severable. If any Party fails to perform its respective obligations under this Settlement, the Settlement may be regarded as rescinded.

4.4 The Parties acknowledge and stipulate that they are agreeing to this Settlement freely, voluntarily, and without any fraud, duress, or undue influence by any Party. Each Party hereby states that it has read and fully understands its rights, privileges, and duties under this Settlement. Respondents further acknowledge full understanding of their right to discuss this Settlement with their legal counsel, and have availed themselves of that right to the extent deemed necessary. In executing this Settlement, each Party declares that the provisions herein are fair, adequate, reasonable, and mutually agreeable. Respondents further acknowledge that as set forth in this Settlement, no promise or inducement has been made or offered them.

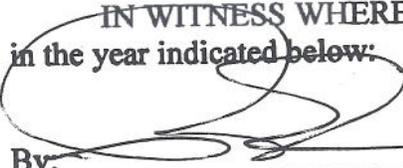
4.5 The execution of this Settlement by the parties, and approval of it by the Commission, terminates the Commission's investigation into the past operations of Respondents, and no further violations have been found by staff, CPSD or CPUC to exist arising out of Respondents' operations in the past.

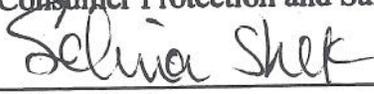
4.6 This Settlement constitutes the Parties' entire Settlement, which cannot be amended or modified without the express written and signed consent of all the Parties hereto.

4.7. This Settlement shall be binding upon the respective Parties hereto, their legal successors, assigns, agents, or corporations (e.g., parent, subsidiaries, affiliates, divisions, units, officers, directors, and/or shareholders).

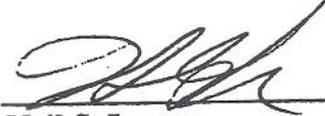
4.8 This Settlement shall become effective and binding on the Parties as of the date it is fully executed.

IN WITNESS WHEREOF, the Parties, hereto have set their hands on the day and in the year indicated below:

By:  Date: 2/26/07  
**Richard W. Clark**  
Director  
Consumer Protection and Safety Division

By:  Date: 2/27/07  
**Selina Shek**  
Staff Counsel  
Attorney for the Consumer Protection and Safety Division

By:  Date: 01-07-07  
**Ralph Daniel Salas, President**  
Harbor Breeze, Corp.  
Respondent

By:  Date: 01-11-07  
**Neil S. Lerner**  
Attorney for Harbor Breeze, Corp.

## CASE SUMMARY

**CARRIER:** Harbor Breeze Corp.  
Db, Harbor Breeze Yacht Charters and Cruises

**ADDRESS:** 235 East Broadway, Suite 610  
Long Beach, CA 90802

**PHONE:** (562) 983-6880

**AUTHORITY:** VCC 00090, Pending 05/09/2006

**VEHICLES:** 5 Vessels

**PL&PD INS.:** RLI Insurance Co.  
Policy Number: TBA-RLI  
Effective date: December 21, 2005

**REVENUE:** \$1,510,434.61 (Annual 2005)

### NARRATIVE

On or about April 28, 2006, the Public Utilities Commission (CPUC) became aware that Harbor Breeze Yacht Charters and Cruises was operating as a charter-party carrier of passengers without having a valid Vessel Common Carrier (VCC) certificate. I was assigned to conduct an investigation disclosing violations of the Public Utilities Code (PUC), and the Commissions General Orders (GO) for the period April 2006 through September 2006. On September 7, 2006, a Mandatory Records Review request was issued to Harbor Breeze Yacht Charters and Cruises covering the period of April 2006 to current.

On May 17, 2006, I contacted Mr. Dan Salas CEO, President, Director, and majority shareholder of Harbor Breeze Corp., I informed him of the complaint and investigation of his company and that he would need to cease and desist all operations having to do with unscheduled charter operations to Catalina, specifically taking groups of children to the campgrounds on the east side of the

island. Mr. Salas informed me that he believed his operations to be exempt from CPUC guidelines, under the continuous loop exemption, and that he would have his attorney contact me to clear things up. I faxed over a *cease and desist* [Attachment 1] to Mr. Salas that same day. The following week I was contacted by Mr. Neil Lerner, of Sands Lerner Professional Corporation, attorney for Salas, and it was determined that although they believed themselves to have a continuous loop exemption they would honor the *cease and desist* until we could further determine it's validity. Upon review of several Commission rulings regarding what defines a Loop exemption, I determined that the trips conducted by Mr. Salas did not meet all of the criteria necessary for exemption. I contacted Mr. Lerner via fax, letter, and telephone [See attachment 2 for copies of correspondence] and we agreed that Mr. Salas and Harbor Breeze would not conduct this sort of business until obtaining a VCC certificate. I was also informed at that time that Harbor Breeze had applied for a certificate as of May 9, 2006. [Attachment 3]

On September 7, 2006 I met with Mr. Salas and Mr. Lerner to review records and determine how many trips were conducted without a VCC certificate.

## VIOLATIONS

The investigation for the period of April 1, 2006 through September 7, 2006, disclosed that the carrier violated the following sections of the Public Utilities Code (PUC), and Commission General Orders (GO):

- **Operated as a vessel common carrier without first obtaining a valid certificate from the CPUC in violation of PUC Section 1007. [4 counts]**

License records show that prior to May 9, 2006, no application for a VCC certificate had been filed. As of September 19, 2006, Harbor Breeze does not have a VCC certificate as their application is still pending.

My review of the waybills, trip tickets, and manifests [Attachment 4] provided by Harbor Breeze Yacht Charters and Cruises disclosed that they have conducted four for-hire transportation trips that require a VCC certificate. Total revenue generated for these trips is \$ 14,546.00. [Table 1]

*Table 1-Dates, passengers, and revenue generated by charter trips.*

Date	Contracting Party	Number of Passengers	Compensation
05/05/06	YMCA of Orange County	100	\$4000.00
05/12/06	YMCA of Orange County	67	\$2546.00
04/21/06	Dazzle Inc.	100	\$4000.00
04/28/06	Dazzle Inc.	100	\$4000.00

### DECLARATION

I have read the foregoing and know the contents thereof and I declare under penalty of perjury that the foregoing is true and correct, except as to those matters stated on information and belief, and to those matters I believe to be true.

Executed on October 20, 2006 at Los Angeles, California.



Stephen Vaisa, Transportation Analyst