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

In the Matter of the Complaint of:

**Starline Tours of Hollywood, Inc., a
California corporation,**

Complainant

vs.

**EHM Productions, Inc, a California
corporation, A.K.A and dba TMZ,
MBLC Productions, Inc., a California
corporation, dba TMZ Tour and TMZ
Celebrity Tour,**

Defendants

Case No. 16-06-007

**COMPLAINANT STARLINE TOURS OF HOLLYWOOD, INC.'S
APPEAL OF PRESIDING OFFICER'S PROPOSED DECISION
DENYING REQUESTED RELIEF**

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Dated: April 26, 2017

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I. INTRODUCTION

Pursuant to Rule 14.4 of the Commission's Rules of Practice and Procedure, Complainant Starline Tours of Hollywood, Inc. ("Starline") hereby appeals the Presiding Officer's Decision Denying Requested Relief (Hereinafter "Proposed Decision"). Although the Proposed Decision is premised on the fact that Defendants violated the law by operating an unlicensed Charter Party Carrier operation for months, no fine has been imposed for inexplicable reasons. The precedent reveals violators have been sanctioned for similar violations. (e.g. *Resolution ALJ-261. Affirming in part, and dismissing in part, Citation F-5182*

issued to James Brice dba Surf City Shuttle, and Surf City Shuttle, Inc., 2010 WL 4912459 (Cal.P.U.C.), hereinafter "Surf City")

Here, the Proposed Decision expressly recognizes Defendants EHM Productions, Inc. ("EHM") and MBLC Productions ("MBLC") do business as "TMZ" and they are referred to collectively as "TMZ." (Proposed Decision at p.2; see also Prehearing Conference dated August 8, 2016, p.13:15 to p.15:11) The Proposed Decision states TMZ began its bus tour operations in April 2016. (Proposed Decision at p.4, para.2) It acknowledges that the Commission issued a Charter Party Carrier for the TMZ tour operator on December 5, 2016. (Proposed Decision at p.5, para.7) Thus, there is no doubt that TMZ operated its bus tour continuously without authorization from the Commission for several months from May to December 2016. Yet, the Proposed Decision does not fix the amount of the fine TMZ must pay or impose any other sanctions. This is wrong.

As written, the Proposed Decision does not make adequate findings, the position adopted is not supported by the findings that are made and some of the findings are erroneous. Therefore, Starline submits the issues should be reviewed and decided correctly on merit based on the evidence and the erroneous portions of the Proposed Decision stricken and replaced with proper findings and rulings to impose the legally required fine or other sanctions on Defendants for their undisputed violations of the law.

II. THE COMMISSION'S PRECEDENT AND EQUAL TREATMENT REQUIRE IMPOSITION OF APPROPRIATE SANCTIONS AND FINES ON DEFENDANTS IN THE SAME MANNER AS OTHER SIMILAR VIOLATORS HAVE BEEN DEALT WITH BY THE COMMISSION.

Fines and penalties related to violations by charter-party carriers as well as aiders and abettors are set forth in Public Utility Code, section 5411 *et seq.*

Violators are subject to a penalty of \$1,000 or more for each violation. Each day of a continuing violation constitutes a separate violation pursuant to Public Utility Code, section 5415. Pursuant to Public Utility Code, section 5414.5, every corporation or person who advertises or holds itself out as a charter-party carrier without having a valid permit is guilty of a misdemeanor punishable, if an individual, by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than six months or by both, or, if a corporation, by a fine of not more than \$5,000, with each day of a continuing violation constituting a separate violation pursuant to Public Utility Code, section 5415. The Commission has issued decisions involving violations that occurred over multiple days. In the case of a continuing violation each day's continuance constitutes a separate and distinct offense." *Qwest*, D.02-10-059 at 43, footnote 43. For example \$10,000 per day considered for 849 days *Cingular Investigation*, D.04-09-62 at 62; \$30 million dollar fine based on a daily penalty of about \$12,000 for 7 years. *SCE's Performance-Based Ratemaking OII*, D.08-09-038 at 111

Determination of fine is based on criteria that have been set forth by the Commission (See the *Affiliate Transactions Rulemaking Decision*, Decision 98-12-075, Appendix A.) They are as follows:

1. Severity of the Offense (e.g. Physical harm to people or property; Economic harm; Harm to the regulatory process; and The number and scope of the violations.)
2. Conduct of the Utility (e.g. The Utility's actions to prevent a violation; The Utility's actions to detect a violation; and The Utility's actions to disclose and rectify a violation.)

3. Financial Resources of the Utility (e.g. Need for deterrence; and Constitutional limitations on excessive fines.)
4. Totality of the Circumstances (The degree of wrongdoing, and; The public interest.)
5. The Role of Precedent in Setting the Fine or Penalty Amount (e.g. Are there previous decisions that involve reasonably comparable factual circumstances?)

Here, there is no dispute that TMZ has been operating as a Charter Party Carrier without Commission authority. Defendants received a Cease and Desist letter to this effect on June 9, 2016. (See Jason Beckerman Prepared Direct Rebuttal Testimony dated November 8, 2016, p.14) TMZ was advised before it started that it needed a Charter Party Carrier permit ("TCP"). (Kamrouz Farhadi Prepared Direct Testimony dated October 11, 2016, p.3) TMZ has disagreed that it does and begrudgingly applied for one after it received the Cease and Desist letter. TMZ continued to operate even after the TCP application was filed with the Commission. Attached hereto as **Exhibit A** is a chart setting forth the details of the violations by Defendants that were proven at the Evidentiary Hearing on December 6, 2016. Although the Proposed Decision lumps the two Defendants together which undermines the tracking of the findings of fact in the Proposed Decision, Exhibit A outlines the violations of each Defendant. There is no debate that these violations occurred. Thus, taking the criteria from Decision 98-12-075 into account, TMZ could be fined at \$1,000 per day from May 12, 2016 to December 5, 2016 for a minimum of \$ 207,000. Yet, not one dollar of fine was imposed. There is no good reason for this ruling.

Violators are routinely sanctioned by the Commission for unlicensed operations as announced in the News Releases by the Commission such as attached as **Exhibit B**. A simple comparison of how these “violators” are treated, such as those in the Surf City matter, reveals that they were fined for essentially committing the same violations as TMZ. This further reveals the lack of justification for failing to impose the appropriate fine on TMZ. There is no reason whatsoever why one violator gets to walk for free and another is sanctioned.

In fact, the Proposed Decision here fails to acknowledge TMZ’s position and the existence of precedence in a material respect. It is inescapable, and it is duly noted in the Proposed Decision at page 2, that TMZ claimed it did not need to get authorization from the Commission because it was not a Charter Party Carrier. Thus, TMZ was not an inadvertent violator. It knew what it was doing and took a legal position throughout the proceedings. TMZ has claimed that it is an entertainment provider who happens to own and operate a bus tour that sells tickets to the public everyday. TMZ claims it does not have vehicles or drivers. It claims its business model is to get customers by virtue of its name and high traffic website and TV programs. TMZ claims the arranging and selling of its tour and then hiring a bus and driver by the hour to provide that tour does not require a TCP. The Proposed Decision avoids dealing with the reality of what TMZ’s position is and has considered the issue to be moot because TMZ has obtained a TCP certificate now. (Proposed Decision at p.9) The position taken in the Proposed Decision is untenable. While obtaining a TCP certainly renders TMZ a Charter Party Carrier on the record that does not mean that TMZ actually should be afforded the status of a Charter Party Carrier if it really is not. This proceeding was intended to deal with the substance of TMZ’s claim that its business model did not need a TCP.

Starline cited the Commission's decision *In re Tower Agency* 93-06-034 ("Tower") for its holding that the business model proposed by TMZ has been rejected as not qualifying to be a Charter Party Carrier. In Tower, the tour operator had a high traffic physical location on the Fisherman's Wharf. It used that platform to do that which TMZ is doing on its digital website and TV platform to sell lots of bus tour tickets. TMZ is a modern day Tower. Under Tower, the factual findings that TMZ is not operating buses, it owns no vehicles, it employs no drivers and does not control the ground transportation elements of the subject bus tour along with TMZ's claim that it merely uses its web and TV locations to sell tours under its name destroys its status as a Charter Party Carrier. Thus, under Tower's holding the Commission should revoke TMZ's TCP permit and issue an injunction for it to remove its name, advertisement and quit telling the public that TMZ owns and operates a bus tour. On the other hand, if TMZ is a Charter Party Carrier despite its protestation, then TMZ must be fined as others for the time period it operated without a license. Unfortunately, the Proposed Decision does not even mention the Tower case and completely ignores it. To straddle the line on this point undermines Tower, does not provide clarity for the operators, and creates a bad precedent by granting Charter Party Carrier status to those who do not fit the criteria. However, if mootness is accepted, as it must if the Proposed Decision is upheld as written, then the conclusion follows that TMZ was an unlicensed Charter Party Carrier who should be sanctioned for its period of illegal operation.

The arguments in the Proposed Decision avoid dealing with the parties' actual contentions and the reasoning offered for not imposing a fine do not reconcile with how other unlicensed operators have been fined for the same exact act of operating while unlicensed. TMZ's direct and undisputed violations are soft peddled because no one was physically hurt in an accident. Historically,

the Commission has not waited for actual events that cause physical harm, monetary losses, property damage and the like to first occur before imposing fines on unlicensed operators. The fact that the parties have run in to obtain a permit after they have been caught has also not been a reason to not impose sanctions. See *Affirming in part, and dismissing in part, Citation F-5182 issued to James Brice dba Surf City Shuttle, and Surf City Shuttle, Inc.*, 2010 WL 4912459 (Cal.P.U.C.); *In the Matter of the Application of Ridepal, Inc., a Delaware corporation*, 2016 WL 5407632 (Cal.P.U.C.). There is no discernible difference in TMZ's conduct as opposed to others, except TMZ was totally aware of its unlawful position, is better heeled as part of a media conglomerate that could have afforded to comply from the start and can well afford to pay a fine for its illegal conduct as opposed to a mom and pop operation with lesser means. The law of fairness and equal treatment requires the better heeled parties not get a bigger break from the system for their illegal conduct.

III. STARLINE ALSO OBJECTS TO SOME OF THE ALLEGED UNDISPUTED FACTS RECITED IN THE PROPOSED DECISION AS THEY WERE ACTUALLY DISPUTED AS SHOWN BY THE RECORD.

Beginning at Page 3, the Proposed Decision sets forth certain facts as "Undisputed Facts." Starline submits the following facts were disputed as follows:

Alleged Undisputed Fact	Disputed In the Record
#2 - Page 4	Termination of the relationship between Starline and TMZ is the subject of other court actions, were not in issue in this matter, and not decided. There was no undisputed fact that EHM terminated its agreement with Starline. (Kamrouz Farhadi Prepared Direct Testimony dated October 11, 2016, p.3; Evidentiary Hearing Transcript dated December 6, 2016, 103:23-26)

#3 - Page 4	TMZ did not provide an actual agreement with ESS in this proceeding. (See Deposition Transcript of Jason Beckerman dated October 4, 2016, p.55:2-15, attached as Exhibit A to Prepared Direct Testimony of Mohammed K. Ghods dated October 11, 2016)
#6 - Page 5	TMZ was warned that it was required to obtain a license to operate a bus tour at a meeting before termination of the relationship with Starline and before TMZ began operations. (Kamrouz Farhadi Prepared Direct Testimony dated October 11, 2016, p.3)

Beginning at Page 10, the Proposed Decision sets forth certain “Findings of Fact.” Starline asserts that the findings of fact are unsupported by the evidence as follows:

Findings of Fact	Unsupported by Evidence
#3 – Page 10	<p>CPUC resources are public resources and the cease and desist issued and these proceedings had to be brought against the unlicensed operator. (See Cease and Desist letter dated June 9, 2016 attached as Exhibit 6 to Evidentiary Hearing Transcript dated December 6, 2016)</p> <p>Testimony shows unlawful gains to TMZ while it operated illegally. (See Confidential Portion of Evidentiary Hearing Transcript dated December 6, 2016 re TMZ profits from bus tour)</p>
#4 – Page 10	Given TMZ’s legal position, this was intentional conduct. TMZ continues to claim it does not need a license. (See TMZ Opening Brief, p.3-5, dated January 27, 2017)
#5 – Page 10	TMZ’s role with Starline was that of content and advertisement provider. (See EHM-Starline Agreement attached as Exhibit JB-1 to Jason Beckerman Prepared Direct Rebuttal Testimony dated November 8, 2016)
#8 – Page 11	There is no evidence that the public actually understood that TMZ, whose name and logo covered the tour bus without prominent display of the actual TCP holder, in effect put the public on notice of the identity of the operator of the bus tour.

IV. CONCLUSION

Based on the foregoing, Starline respectfully request this Honorable Commission grant this appeal accordingly.

Respectfully submitted

DATED: April 26, 2017

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EXHIBIT A

THE UNDISPUTED FACTS REGARDING DEFENDANTS VIOLATION OF THE LAW

Code Section	MBLC's Violation	EHM's Violation
<p>Public Utility ("PU") Code § 5371.</p> <p>"No charter-party carrier of passengers ... shall engage in transportation services made subject to this chapter without first having obtained from the commission a certificate that public convenience and necessity require the operation ..."</p>	<p>MBLC operated as an unlicensed charter-party carrier from May 12, 2016. It did not obtain its TCP license until December 5, 2016.</p> <p>MBLC attempted to skirt the law by renting a bus and driver from other companies such as ELS and Pearl. However, this effort was misguided. These operators were also at times unlicensed. Furthermore, MBLC as a Charter Party Carrier needed to have a license regardless of using others as subcarriers.</p> <p>MBLC also aided and abetted ELS from engaging in charter-party carrier services without the proper authority to do so for the time that ELS was improperly using Pearl's TCP number as its authority from the Commission from May 12, 2016 to June 29, 2016. See PU Code § 5413</p>	<p>EHM aided and abetted MBLC in violating PU Code § 5371 by assisting MBLC in the establishment of the unlicensed bus tour and by advertising for the TMZ Celebrity Tour on its website TMZ.com and other media platforms and by offering the sale of tickets for the TMZ Celebrity Tour on TMZ.com and TMZTour.com. See PU Code §§ 5412 and 5414</p>
<p>PU Code § 5374.</p> <p>Before a permit is issued or renewed, a charter-</p>	<p>MBLC operated as a charter-party carrier from May 12, 2016 to December 5, 2016 without any</p>	<p>EHM aided and abetted MBLC in violating PU Code § 5374 for the same</p>

<p>party carrier must demonstrate to the Commission that it is financially capable of conducting its operations, that it is committed to observing the hours of service regulations for its employees or subcarriers, that it has a preventative maintenance program, that it participates in a program to regularly check the driving records of all employees or subcarriers, that it has a safety education and training program for its employees or subcarriers, that it will maintain its vehicles used in safe operating condition, it has filed a certificate of workers' compensation insurance coverage, that it has provided an address where its documents will be kept, and that it has a mandatory controlled substance and alcohol testing certification program.</p>	<p>authority from the Commission and prior to establishing to the Commission any of the requirements set forth in PU Code § 5374.</p>	<p>reasons as set forth above while EHM was aware that MBLC had not established to the Commission any of the requirements set forth in PU Code § 5374.</p>
<p>PU Code § 5378.1.</p> <p>A charter-party carrier must file with the Commission a certificate of workers' compensation coverage for its employees, a certificate of consent to self-insure, or a statement that it does not employ any person subject to workers' compensation laws.</p>	<p>MBLC operated as a charter-party carrier from May 12, 2016 to December 5, 2016 without any authority from the Commission and prior to filing a certificate of workers' compensation insurance, a certificate of consent to self-insure, or a statement that it did not employ any persons subject to workers' compensation.</p>	<p>EHM aided and abetted MBLC in violating PU Code § 5378.1 for the same reasons as set forth above while EHM was aware that MBLC had not filed the necessary worker's compensation certificate or the equivalent.</p>
<p>PU Code § 5387.</p> <p>"It is unlawful for the</p>	<p>MBLC operated as a charter-party carrier from May 12, 2016 to December</p>	<p>EHM aided and abetted MBLC in violating PU Code §</p>

<p>owner of a charter-party carrier of passengers to permit the operation of vehicles upon a public highway for compensation without (1) having obtained from the commission a certificate or permit pursuant to this chapter, (2) having complied with the vehicle identification requirements of Section 5385 [identifying the charter-party carrier's license and classification], and (3) having complied with the accident liability protection requirements of Section 5391;" see <i>a/s/o</i> PU Code §§ 5385 and 5391; see <i>a/s/o</i> CPUC General Order ("GO") 115-G requiring a charter-party carrier to maintain adequate liability insurance.</p>	<p>5, 2016 without any authority to do so from the Commission, without having complied with the vehicle identification requirements of Section 5385, and without having complied with the accident liability protection requirements of Section 5391.</p> <p>MBLC also aided and abetted ELS from engaging in charter-party carrier services without the proper authority to do so for the time that ELS was improperly using Pearl's TCP number as its authority from the Commission from May 12, 2016 to June 29, 2016. See PU Code § 5413</p>	<p>5387 for the same reasons as set forth above while it was aware that MBLC had not complied with the necessary requirements of licensure, vehicle identification, and insurance requirements.</p>
<p>PU Code § 5384.2.</p> <p>Charter-party carriers are required to "furnish the commission annually with a list, prepared under oath, of all vehicles used in transportation for compensation during the preceding year ..." Pub. Util. Code § 5384.2; see <i>a/s/o</i> GO 157-D § 4.01 requiring charter-party carriers to maintain with the Commission a list of all vehicles in use; see <i>a/s/o</i> GO 157-D, § 4.02 requiring all vehicles used to comply with the requirements of the CHP and the Motor Carrier Safety Sections of Title 13 of the California Code of Regulations and inspection and</p>	<p>MBLC operated as a charter-party carrier from May 12, 2016 to December 5, 2016 without any authority to do so from the Commission and without furnishing an accurate list of the vehicles used in its bus tour and without any inspection or maintenance of the vehicles used in its bus tour.</p>	<p>EHM aided and abetted MBLC in violating PU Code § 5384.2, GO Order 157-D, §§ 4.01 and 4.02 for the same reasons as set forth above while it was aware that MBLC had not furnished vehicle lists to the Commission.</p>

<p>maintenance of all vehicles in use.</p>		
<p>PU Code § 5360; CPUC General Order 157-D, §§ 3.04 and 4.09</p> <p>A “charter-party carrier of passengers” means every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state ... [and] includes any person, corporation, or other entity engaged in the provision of a hired driver service when a rented motor vehicle is being operated by a hired driver.” PU Code § 5360</p> <p>A charter-party carrier may not use the services of a sub-carrier that provides a vehicle and driver, unless the second carrier also holds Commission authority as a charter-party carrier and the agreement to use the sub-carrier is in writing and includes both carriers’ names, TCP numbers and services to be provided. GO 157-D, § 3.04. A charter-party carrier may not knowingly permit its operating authority or TCP number to be used by others. GO 157-D, § 4.09.</p>	<p>It has been established that MBLC was engaged in the transportation of persons by bus for compensation and engaged in providing a hired driver service with a motor vehicle operated by a hired driver.</p> <p>Although MBLC used the services of sub-carriers, namely (ELS and Pearl) in its enterprise, it never produced any evidence of a written agreement between either of them that identified MBLC’s TCP number and the services to be provided. Because there is no evidence that ELS and Pearl were bona fide sub-carriers of MBLC who in any event was required to be licensed also, with a valid written agreement identifying the TCP numbers of MBLC, ELS and/or Pearl, MBLC was not permitted to use the TCP numbers of ELS or Pearl as it did on the buses used for MBLC’s bus tour and on advertising and ticket sales for the TMZ Celebrity Tour.</p> <p>MBLC also aided and abetted ELS from engaging in charter-party carrier services without the proper authority to do so for the time that ELS was improperly using Pearl’s TCP number as its authority from the Commission from May 12, 2016 to June 29, 2016. See PU Code § 5413</p>	<p>EHM aided and abetted MBLC in violating PU Code 5360 and GO 157-D, §§ 3.04 and 4.09 for the same reasons as set forth above while EHM was aware that MBLC was using a sub-carrier, sub-sub-carrier without proper authority to do so.</p>

<p>CPUC General Order 157-D, §§ 5.02, 10.02 et seq.</p> <p>Carriers are required to enroll in the “Pull Notice Program” with the DMV and carrier vehicles shall not be operated by negligent operators. All drivers of carriers must submit to and report pre-employment and other regular alcohol and drug testing.</p>	<p>MBLC failed to enroll drivers in a “Pull Notice Program” with the DMV and failed to conduct any drug or alcohol testing and/or reporting of the same to the Commission for the drivers MBLC used for its bus tour. Whether or not ELS or Pearl properly governed their drivers did not relieve MBLC of the obligations to comply with the Commissions requirements regarding the drivers of the bus tour.</p>	<p>EHM aided and abetted MBLC in violating GO 157-D, §§ 5.02, 10.02 et seq. for the same reasons as set forth above while EHM was aware that MBLC had not complied with the driver “Pull Notice Program” or drug and alcohol testing.</p>
<p>CPUC General Order 157-D, § 3.06</p> <p>Carriers cannot use any trade, business, or fictitious names not on file with the Commission.</p>	<p>MBLC used the fictitious business names of “TMZ Celebrity Tour” and “TMZ Tour” in connection with their bus tour but failed to present evidence or establish that those names (registered with the Los Angeles County Recorder’s Office on August 1, 2016) were on file with the Commission.</p>	<p>EHM aided and abetted MBLC in violating GO 157-D, § 3.06 for the same reasons as set forth above while EHM was aware that MBLC was using a fictitious business name that was not recorded or on file with the Commission.</p>
<p>PU Code § 5386; CPUC General Order 157-D § 3.07</p> <p>Charter-party carriers of passengers are required to include the number of its permit or certificate in every advertisement of the services it offers to the public. PU Code § 5386 (a); see also CPUC General Order 157-D, § 3.07. Advertisements include, but are not limited to, “the placement of any card, sign, or device to any person, the causing, permitting, or allowing the</p>	<p>MBLC failed to include their TCP number on all of their advertisements, including, <i>inter alia</i>, on TMZ.com and other media outlets, on the buses for the TMZ Celebrity Tour, at the locations of physical ticket sales because until December 5, 2016, MBLC did not have any authority from the Commission to operate and did not have a TCP number. MBLC’s use of ELS’s and Pearl’s TCP numbers (including when the same was suspended and when Pearl’s TCP number was being</p>	<p>EHM aided and abetted MBLC to violate PU Code 5384.2 and GO 157-D § 3.07 for the same reasons as set forth above while EHM was aware that MBLC was wrongfully advertising. EHM also wrongfully advertised the MBLC bus tour by failing to use any TCP number of MBLC in the advertising for the TMZ Celebrity Tour on EHM’s websites TMZ.com and TMZTour.com, where</p>

<p>placement of any sign or marking on or in any building or structure, or in any media form, including newspaper, magazine, radiowave, satellite signal, or any electronic transmission, or in any directory soliciting charter-party transportation services subject to this chapter.” PU Code § 5386 (b).</p>	<p>wrongfully and improperly used by ELS) did not cure MBLC’s failure to comply with the requirements use its TCP numbers in their advertising and instead served to further confuse the public and lull them into believing that MBLC was a licensed bus tour operation.</p>	<p>it sold tickets to the bus tour in addition to advertising for the same. EHM further aided and abetted MBLC and also falsely advertised on TMZ.com and TMZTour.com that MBLC’s bus tour had authority to operate under the TCP numbers of ELS and Pearl when EHM knew that MBLC had no authority from the Commission to operate its bus tour.</p>
<p>Bus. & Prof. Code § 17200 and 17500.</p> <p>It is unlawful to disseminate before the public in this State, in any newspaper or other publication, or any advertising device, any statement concerning services, professional or otherwise, which is untrue and misleading. Bus. & Prof. Code §17500 et seq. A false or misleading statement is one that is likely to deceive members of the public. <i>Chern v. Bank of America</i>, 15 Cal. 3d 866, 876 (1976). The statutory framework imposes strict liability such that it is not necessary to show a defendant intended to injure anyone, that anyone was actually deceived, actually relied upon the fraudulent practice, or actually sustained any damage. <i>Prata v. Superior Court</i>, 91 Cal. App. 4th 1128, 1146 (2001); see also <i>State</i></p>	<p>MBLC made false and misleading statements in its advertising that it was operating pursuant to the Commission’s authority through the TCP certificates of ELS and Pearl and/or that the Commission’s authority to ELS and/or Pearl provided MBLC with the authority to provide the TMZ Celebrity Tour. MBLC’s advertising and offers to sell bus ticket to the TMZ Celebrity Tour also made false and misleading statements regarding the operator of the TMZ Celebrity Tour, changing the name it identified as the tour operator although never accurately identifying itself as the actual operator of the bus tour. MBLC also never used its true name in connection with the TMZ Celebrity Tour although its fictitious business names were not on file with the Los Angeles County Recorder’s office until months after the bus tour</p>	<p>EHM made false and misleading statements in its advertising and offers for sale of the TMZ Celebrity Tour bus tickets on its websites TMZ.com and TMZTour.com by claiming that MBLC was operating pursuant to the Commission’s authority through the TCP certificates of ELS and Pearl and/or that the Commission’s authority to ELS and/or Pearl provided MBLC with the authority to provide the TMZ Celebrity Tour. EHM’s advertising and offers to sell bus ticket to the TMZ Celebrity Tour also made false and misleading statements regarding the operator of the TMZ Celebrity Tour, changing the name it identified as the tour operator although never</p>

<p><i>Farm Fire & Casualty Co. v. Superior Court</i>, 45 Cal. App. 4th 1093, 1102 (1996).</p> <p>Unfair, deceptive or fraudulent business practices also are prohibited. Bus. & Prof. Code §17200 et seq. A violation of section 17500 constitutes a per se violation of section 17200 set seq. <i>Greenlining Institute v. Public Utilities Comm.</i>, 103 Cal. App. 4th 1324, 1333 (2002).</p>	<p>was operational.</p>	<p>accurately identifying MBLC as the actual operator of the bus tour. EHM also never identified MBLC as the true name of the entity offering the TMZ Celebrity Tour although MBLC's fictitious business names were not on file with the Los Angeles County Recorder's office until months after the bus tour was operational. EHM's TMZ.com also is misleading regarding the relationship it has to the bus tour and the name TMZ, TMZ Celebrity Tour and TMZ Tour, suggest that EHM and MBLC are one in the same and both are identified by the moniker "TMZ."</p>
<p>PU Code §§ 5387.5 and 5411, 5415, and 5416.</p> <p>The Commission is authorized to impose penalties against any person or corporation that holds itself out as a charter-party carrier of passengers without a permit to operate. PU Code § 5387.5.</p> <p>Charter-party carriers and every officer, director, agent or employee of any charter-party carrier is guilty of a misdemeanor and is punishable by not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000), or by</p>	<p>MBLC has violated a number of Public Utilities Codes and General Orders 157-D and 115-G provisions that subjects it to statutory penalties. Furthermore, MBLC's violations are continuing violations subjecting them to statutory penalties for each day over the course of many months. It is undisputed that MBLC operated as a charter-party carrier from May 12, 2016 to December 5, 2016, a total of 208 days. Pursuant to Public Utilities Code §§ 5387.5, 5411, 5415, and 5416, the Commission is authorized to penalize MBLC and its officers, directors, agents and</p>	<p>EHM as an aider and abettor to MBLC's violations as set forth herein and pursuant to PU Code §§ 5412 and 5414 and is subject to penalties in the amount of \$416,000 (208 x \$2,000). See a/so PU Code §§ 5415 and 5416.</p>

<p>imprisonment for not more than three months, or both, for violations or the aiding and abetting of any violations of the Public Utilities Code, or any related orders, decisions, rules, regulations, directions, demands, requirements or operating permits or certificates. PU Code § 5411.</p> <p>Each continuing charter-party carrier violation is a separate and distinct offense for each day of the continuing violation. PU Code § 5415.</p> <p>Furthermore, all penalties accruing against a party pursuant to the charter-party carrier provisions are cumulative and do not bar recovery of any other penalty or forfeit or bar criminal prosecution against any other party. PU Code § 5416.</p>	<p>employees a fine not more than \$1,040,000 (208 x \$5,000) but not less than \$208,000 (208 x \$1,000), in addition to possible imprisonment of not more than three months.</p> <p>MBLC aided and abetted ELS as set forth herein and pursuant to PU Code § 5413 and is subject to additional penalties (for the 48 days from May 12, 2016 to June 29, 2016 for the time that ELS was not licensed but was wrongfully using Pearl's TCP number) in the amount of \$96,000 (208 x \$2,000).</p>	
<p>PU Code §§ 5411.3</p> <p>The display of identifying symbols on a vehicle other than one prescribed by the Commission is a misdemeanor punishable by not more than one year in jail, or a fine not more than two thousand five hundred dollars (\$2,500), or both. PU Code § 5411.3.</p>	<p>MBLC is subjected to penalties for the wrongful display of ELS' and Pearl's TCP numbers on its TMZ Celebrity Tour buses pursuant to Public Utilities Code §§ 5411.3, 5415, and 5416 in the amount of \$520,000 (208 x \$2,500), in addition to up to a year in jail.</p> <p>MBLC aided and abetted ELS as set forth herein and pursuant to PU Code § 5413, and is subject to additional penalties (for the 48 days from May 12, 2016 to June 29, 2016 for the time that ELS was not</p>	<p>Aiding and abetting this violation of MBLC or any other code, order or regulation, subjects EHM to additional penalties of \$416,000 (208 x \$2,000) pursuant to Public Utilities Code §§ 5412, 5414, 5415, and 5416.</p>

	licensed but was wrongfully using Pearl's TCP number) in the amount of \$96,000 (208 x \$2,000).	
<p>PU Code §§ 5413.5</p> <p>A person or corporation operating as a charter-party carrier or carrier of passengers without a valid certificate or permit, or a person or corporation that fails to include its certificate or permit number in advertisements may be fined not more than \$7,500 for each violation plus the expense of investigation incurred by the Commission. Interest on the amount may be assessed also. PU Code § 5413.5. <i>See also</i> PU Code §§ 5415, and 5416 re continuing violations and cumulative penalties.</p>	<p>MBLC is subject to penalties for the time that it advertised wrongfully that its bus tour was properly authorized by the Commission pursuant to ELS' and Pearl's TCP certificates, MBLC is subject to penalties up to \$1,560,000 (208 x \$7,500).</p> <p>MBLC is subject to penalties for the time that it aided and abetting ELS' violations of this section when ELS advertised wrongfully that it was properly licensed using Pearl's TCP number and is subject to additional penalties (for the 48 days from May 12, 2016 to June 29, 2016 for the time that ELS was not licensed but was wrongfully using Pearl's TCP number) in the amount of \$96,000 (208 x \$2,000). <i>See</i> PU Code §§ 5413, 5415, and 5416.</p>	<p>Aiding and abetting this violation of MBLC or any other code, order or regulation, subjects EHM to additional penalties of \$416,000 (208 x \$2,000) pursuant to Public Utilities Code §§ 5412, 5414, 5415, and 5416.</p>
<p>PU Code § 5413.</p> <p>Every charter-party carrier who violates or fails to comply with, or who aids, or abets, any violation of the public utilities chapter regarding charter-party carriers, or any order, decision, rule, regulation, direction, demand, or requirement of the</p>	<p>As set forth herein, MBLC violated additional code sections, rules and orders such as those found in GO 157-D and GO 115-G and multiple Public Utility Code violations that subject MBLC to separate ongoing sanctions.</p>	<p>Aiding and abetting any of these additional violations of MBLC subjects EHM to additional penalties of \$416,000 (208 x \$2,000) pursuant to Public Utilities Code §§ 5412, 5414, 5415, and 5416.</p>

<p>commission is subject to a penalty not more than \$2,000 for each offense. See <i>also</i> PU Code 5415 and 5416.</p>		
<p>Affiliate Transactions Rulemaking Decision, Decision 98-12-075, Appendix A.</p> <p>In determining whether to impose a fine and the amount to impose, the Commission generally considers five factors, namely, (1) the severity of the offense, including physical and economic harm to others, economic gain to the carrier, and harm to the regulatory process; (2) the carrier's conduct in preventing, detecting, correcting, disclosing, and rectifying the violation; (3) the amount of fine that will achieve the objective of deterrence based on the carrier's financial resources; (4) fines or sanctions that the Commission has imposed under reasonably comparable factual circumstances; and (5) the totality of circumstances in furtherance of the public interest.</p>	<p>MBLC has offered bus tours to the public continuously since May 12, 2016. As demonstrated by Exhibit 8 attached to the Evidentiary Hearing transcript, MBLC offers at least 5 bus tours every day and on two days a week, it offers 6. The price of an adult bus ticket is \$54 and the buses used carries 25 persons. From May 12, 2016 to December 6, 2016, revenue to MBLC is \$1,485,000 using this model. This number is likely very low, however, because the web pages showing the number of tours offered in one day is from December, an historically slow month in the bus tour business compared to the summer when tourists visit the area for these types of activities.</p> <p>At the Evidentiary Hearing, MBLC provided confidential testimony regarding its estimated revenue in very round and unsubstantiated numbers. MBLC had an opportunity to present credible evidence showing its revenues are less than what can be calculated by the number of tours they offer to the public online, but it offered none. The presumption that if MBLC had more accurate evidence of its revenue then it should have offered</p>	

	it must be construed against MBLC for its failure to offer such evidence.	
<p>PU Code § 5415.5.</p> <p>The Commission may impose temporary injunctions, restraining orders, or other orders, including the impound of vehicles at the carrier's expense for violations of codes, orders, decisions, rules, regulations, or other requirements of the Public Utilities provisions. Pub. Util. Code § 5415.5.</p>	<p>MBLC should be enjoined from engaging in deceitful advertising under the moniker "TMZ." MBLC should be ordered to display fully what they are and what they are not doing in connection with the TMZ Celebrity Tour.</p> <p>MBLC also may also be enjoined from any further bus tour operations for its failure to abide by the law and obtain proper licensure before offering the bus tour to the public. PU Code § 5387; <i>See also In re Tower Tours Agency</i>, 49 CPUC 2d 506 (1996).</p>	<p>EHM should be enjoined from engaging in deceitful advertising under the moniker "TMZ." EHM should be ordered to display fully what they are and what they are not in connection with the TMZ Celebrity Tour.</p>

EXHIBIT B

EXHIBIT B



California Public Utilities Commission
505 Van Ness Ave., San Francisco

FOR IMMEDIATE RELEASE

PRESS RELEASE

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**CPUC INVESTIGATIONS RESULT IN ENFORCEMENT ACTIONS
AND FINES IMPOSED ON VARIOUS LIMOUSINES,
SHUTTLES, AND BUS COMPANIES**

SAN FRANCISCO, June 15, 2016 – The California Public Utilities Commission (CPUC), in its ongoing commitment to consumer protection, took a number of actions during the first quarter of 2016 to protect consumers from illegally operating limousine, bus, and shuttle companies for violations of the Public Utilities Code and CPUC rules and regulations, including General Orders (GO) 115-F and 157-D.

Administrative Citations

Twelve companies were cited and fined a total of \$44,500 for one or more of the following violations:

1. Advertised a revoked permit number
2. Failed to enroll and/or pre-employment test drivers in a mandatory drug and alcohol program
3. Failed to enroll drivers in DMV Pull Notice program
4. General Order 157-D violation (failed to maintain a current equipment list, no sub-carrier agreement, or incomplete waybills)
5. Operated without a valid authority (suspended or unlicensed)
6. Operated vehicles that are not insured at the required minimum level of public liability and property damage insurance
7. Failed to properly report gross revenue earned
8. Failed to respond to consumer complaints

Companies cited:

1. Hollywoodland Tours, Inc., Los Angeles (TCP 34188)
2. Ramien James Houshmand dba Rockstar Transportation Service, Goleta (TCP 19897)
3. Southern California & Tours, Inc., dba Socal Charter, Ontario (TCP 35198)
4. City Safari Hollywood Inc., Los Angeles (TCP 22369)
5. Black Cap Limousine, Inc., dba Limousine Service, Mountain View (TCP 28130)

6. Wonderful Tours Inc., El Monte (TCP 28784)
7. Grupo Azteca LLC dba Airport Shuttle, San Diego (TCP 14007)
8. Her Majesty's Ride Inc., dba H.M.R. Transportation, Anaheim (TCP 22829)
9. Hector Bravo Soltero dba Bravosol Tours, Calexico (TCP 20048)
10. Miguel Angel Duenas dba VIP Transportation Services, Montebello (TCP 26782)
11. Newport Investments LLC, Encino (TCP 25893)
12. Toreck LLC dba Dark Horse Limousines, Newport Beach (TCP 26313)

Enforcement Actions at Los Angeles World Airport (LAWA):

Number of citations issued by LAWA police (unlicensed operations only)	9
Number of vehicles impounded	7

Official Notices

Fifteen companies for one or more of these violations:

1. Engaged drivers prior to enrollment in the DMV pull notice and drug and alcohol programs
2. Advertised and operated without authority (prior to issuance, expired, or suspended)
3. Conducted operations at an airport without holding an airport permit
4. Engaged drivers without workers' compensation insurance on file and in effect
5. Failed to include TCP authority number in advertisements
6. Failed to update equipment list
7. Incomplete or no waybills
8. Knowingly and intentionally filed a false report that understates revenues and fees

Company receiving notice:

1. ATH Limo LLC, Alameda (TCP 32466)
2. Vikram Passi dba Great Way Limousine, Hayward (TCP 30276)
3. Fahri Cimen dba Highline Transportation/Highline Charter, San Diego (TCP 27435)
4. Highline Charter, Inc., San Diego (TCP 35957)
5. James Houshmand dba Rockstar Transportation Service, Goleta (TCP 15380)
6. Le Ride Driving Services Inc., Orangevale (Unlicensed)
7. Reginal Goulart dba House/Pet Sitting, Sebastopol (Unlicensed)
8. James Weatherall dba Upscale Executive Transportation, Diamond Bar (MTR 197199)
9. Dominique Prince dba It's Your Limo, San Pedro (Unlicensed)
10. Brooks Transportation Inc., West Hills (TCP 21705)
11. Arthur Champie dba Napa Sonoma Wine Tasting Driver, Vacaville (Unlicensed)
12. SF Ride, Inc., Mountain View (TCP 29582)
13. Masoud Zahedi Seysan dba Black Royal Limousine, Irvine (TCP 34876)
14. Donna L. Jackson dba Napa Bee Driven, Napa (TCP 36266)
15. CA Limo Service LLC, Fremont (TCP 27001)

Refunds and Settlement Claims

1. Usama Al Bostani dba Airport Express Shuttle, Redondo Beach (TCP 6595)
2. Red Vans Mgmt. Services Inc., dba Shuttle 2 LAX, Hawthorne (TCP 19866)
3. Greyhound Lines Inc. dba Boltbus, Dallas (TCP 00001)
4. It's About Time Transportation LLC dba Prime Time Shuttle, Costa Mesa (TCP 30287)
5. Rideshare Port Management LLC dba Prime Time Shuttle, Hawthorne (TCP 11415)

PUCTRA Fees

Transportation charter party carriers are required to pay Public Utilities Commission Transportation Revenue Account (PUCTRA) fees. These fees are based on the accurate reporting of a carrier's gross revenues. Thorough ongoing investigations, the CPUC has recovered \$4,250 in unpaid PUCTRA fees.

Cease and Desist Notices

Twenty-six companies were issued a cease and desist (C&D) notice for the violation of operating and/or advertising without a valid charter-party authority (unlicensed, suspended, revoked, denied, or expired).

Companies issued a C&D notice:

1. Farid Nikkhoo dba Limo Zone, Orange (TCP 31548)
2. Richard Graedel dba Driver Chico, Chico (Unlicensed)
3. Joseph Osheroe and Igor Tverskoy dba LX Limo, Renton, WA (Unlicensed)
4. Tony Cabrera dba Getting Out Limousine, Ventura (Unlicensed)
5. Coast II Coast Services, Inc. dba Kelley Transportation (TCP 25528)
6. Tom Rigby dba Silver Shadow Tours, Paso Robles (Unlicensed)
7. Miguel Angel Duenas dba VIP Transportation Services, Montebello (TCP 26782)
8. Napa Red Cab, Napa (Unlicensed)
9. Regina Lee Goulart dba House/Pet Sitting, Sebastopol (Unlicensed)
10. Revival Express, Redding (Unlicensed)
11. iCommute Inc. dba RidePal, San Francisco (Unlicensed)
12. Evolve Executive Car Service SF LLC, San Francisco (TCP 28004)
13. Yabsra Transportation LLC, San Diego (TCP 31748)
14. Donna Jackson, dba Napa Bee Driven, Napa (Unlicensed)
15. Tower Tours LLC, San Francisco, (TCP 15583)
16. Philip Betz dba Airport Transportation and Car, Palmdale (Unlicensed)
17. Social Drv, LLC, Fremont, (Unlicensed)
18. Bluesky Tours, Los Angeles (TCP 26135)
19. Ultimate Buses, Inc., Riverside (TCP 29353)
20. Brent Kiewside dba BL By The Shore Experience, Salinas (Unlicensed)
21. Shasta Shuttle and Taxi, Mount Shasta (Unlicensed)
22. Vladimir Frakt dba Frakt Classic Limo Service, San Jose (Unlicensed)
23. Robert Poelker dba Vintage Dream Rolls Royce Service, Hollister (TCP 31447)

- 24. Mohammad Elfatih Abdelgadir dba ATA Transportation, San Lorenzo (Unlicensed)
- 25. Arturo Ortiz dba Limousine Art Transportation Service, Oxnard (Unlicensed)
- 26. A and A Livery LLC, Navarre (TCP 18850)

For more information on the CPUC, please visit www.cpuc.ca.gov.

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