

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

9/10/2021

Agenda ID #19869

TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-409:

This is the draft Resolution of Administrative Law Judge (ALJ) Patricia Miles resolving the Appeal K.21-04-003. 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. Comments shall be served (but not filed) within 20 days of the date that the draft Resolution was mailed and published on the Commission's website [link], as provided in Rule 14.5 of the Commission's Rules of Practice and Procedure. Comments shall be served upon all persons on this proceeding's service list and on ALJ Miles at patricia.miles@cpuc.ca.gov.

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:sgu

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-409
Administrative Law Judge Division
[Date]

R E S O L U T I O N

RESOLUTION ALJ-409 - Resolves K.21-04-003 the Appeal of Dawit Berhanu Bekele d/b/a First Class Limo Services from March 23, 2021 Citation and Fine in the Amount of \$3,000.

SUMMARY

This resolution resolves the appeal K.21-04-003, filed by Dawit Berhanu Bekele from Citation No. T.21-03-002, which was issued by the Consumer Protection and Enforcement Division (CPED) of the California Public Utilities Commission on March 23, 2021. Citation No. T.21-03-002 issues a fine of \$3,000. By this resolution, the appeal is granted and the fine is dismissed.

BACKGROUND

Public Utilities Code Section (Pub. Util. Code §) 5360¹ defines “charter-party carrier of passengers” (TCP) as “every person engaged in the transportation of persons by motor vehicle for compensation.” Pub. Util. Code § 5379 provides that it is unlawful for a charter party carrier to conduct operations (*i.e.*, carry passengers) during a period of suspension, or after cancellation or revocation of its permit or certificate.

Dawit Berhanu Bekele (Mr. Bekele) is an individual doing business as First Class Limo Services, a charter party carrier, under TCP 38190-B.

A. The Order of Suspension

CPED issued an Order of Suspension of Mr. Bekele’s license to operate as a charter party carrier effective November 23, 2019, for failure to maintain adequate insurance. The suspension was prompted by electronic notification from Old Republic Title

¹ All subsequent references are to the Public Utilities Code.

Company, that CPED received on October 25, 2019, that Mr. Bekele's policy #MWTB313138 would be cancelled effective November 23. Old Republic Title Company input electronic confirmation of the cancellation on November 19, 2019.²

On January 9, 2020, CPED received electronic notice from Columbia Insurance Company that Mr. Bekele and First Class Limo Services were issued a policy effective January 10, 2020 through January 9, 2021.³ Therefore, on January 10, 2020, CPED issued a Notice of Reinstatement to Mr. Bekele, indicating that its order of suspension for failure to maintain adequate insurance, was resolved.

B. The Citation and Fine

CPED became aware that Mr. Bekele continued to transport passengers after November 19, 2019, when CPED received a December 28, 2019, citation issued to Mr. Bekele from the San Francisco Airport Commission.⁴ The citation indicates that Mr. Bekele entered the domestic arrivals area on that date and was determined to have a suspended TCP effective November 23, 2019. During hearing, CPED stated that it issued a notice to Mr. Bekele on or about October 28, 2020, requesting details about trips he took between November 19, 2019, and January 10, 2020.

Mr. Bekele provided CPED with trip logs showing that he completed 28 trips between November 26 and December 30, 2019.⁵ On October 19, 2020, CPED assigned an investigator to determine whether Mr. Bekele violated provisions of the Pub. Util. Code. On March 23, 2021, the Commission issued a Citation for violation of Pub. Util. §§ 5379, 5381 and 5391, as well as General Order (GO) 115-G. The Citation ordered Mr. Bekele to pay a fine of \$3,000 under Pub. Util. Code § 5387(c)(1) or to contest the citation by filing an appeal.⁶ \

C. The Appeal

On April 6, 2021, Mr. Bekele filed a Notice of Appeal of the citation and fine. In his appeal, Mr. Bekele states that he had coverage with Allied World Assurance Company (Allied World) under Policy 6000-0755 from November 22, 2019 through December 31, 2019, and he attaches a California Insurance Identification Card and Certificate of Liability Insurance.⁷ His appeal qualifies for the expedited hearing process under

² See Case Summary report by Eric Ow dated March 23, 2021, Attachment 1.

³ *Id.*, Attachment 4.

⁴ *Id.*, Attachment 2.

⁵ *Id.*, Attachment 3.

⁶ See Compliance Filing for Citation number T.21-03-002 dated April 20, 2021.

⁷ See Citation Appeal by Dawit Berhanu Bekele filed April 6, 2021, Attachment 2.

Resolution ALJ-377, because the amount at issue is less than the jurisdictional limit for small claims courts in California.

EXPEDITED APPEAL HEARING

An expedited citation appeal hearing was held by telephone on May 26, 2021. Resolution ALJ-377 places the burden of proof at hearing upon CPED staff to prove a prima facie case supporting its issuance of a citation for an alleged violation. The burden then shifts to the appellant to demonstrate that a violation did not occur and that the citation or fine amount is inappropriate.

CPED staff credibly explained that they relied upon electronic filings by Old Republic Title Company and Columbia Insurance Company to determine that Mr. Bekele was not insured between November 19, 2019 and January 10, 2020.

Mr. Bekele explained that he was covered under a policy issued to Super Shuttle during the period mentioned in the citation. He possesses a certificate of liability insurance and a California Identification Card issued by Transit Insurance Services reflecting coverage for First Class Limo Services from November 22, 2019 to December 31, 2019 with Allied World.⁸

CPED admitted that it could not verify Mr. Bekele had coverage under the Allied World policy, because the policy had not been electronically filed as required. CPED was ordered to contact Allied World to (1) verify coverage, (2) determine details of the policy, and (3) obtain explanation of why evidence of coverage was not electronically filed as required under General Order 115-G.⁹

DISCUSSION

Following the hearing, on June 8, 2021, CPED sent a data request to Allied World, requesting details of whether it insured First Class Limo Service under policy 6000-0755 from November 22 to December 31, 2019. On June 30, 2021, CPED served the June 10, 2021, email response that it received from Allied World.¹⁰ The response includes a

⁸ Transit Insurance Services holds CA license 0679250, and its policy meets the requirements of California Vehicle Code § 16056, California's Financial Responsibility Law, which mandates that drivers in the state must have valid liability insurance, a \$35,000 bond, or a certificate from the Department of Motor Vehicles stating the driver has \$35,000 in self-insurance. Section 16056 specifies the requirements of the companies issuing the bonds and insurance and breaks down the liability amounts and coverages.

⁹ See May 26, 2021 Ruling of Administrative Law Judge (ALJ).

¹⁰ Allied World responded by email from its SVP and General Counsel, Karen L. Colonna, CPCU. The response included a Commercial Automobile Policy issued to Super Shuttle International, with Business Auto Declarations and an Endorsement naming an additional 171 insured entities, each of which has a unique "CPUC Carrier ID" and VIN number. Her response indicates that the listed vehicles were added on the policy effective November 22, 2019

Commercial Automobile Policy issued to Super Shuttle International, along with an endorsement listing additional covered entities. The endorsement reflects First Class Limo Services as a covered entity. The VIN number for First Class Limo Services matches the VIN shown on the California Identification Card that Mr. Bekele provided during the expedited citation appeal hearing.

The information provided at hearing by Mr. Bekele, and later corroborated in Allied World's response to CPED's data request, clearly supports Mr. Bekele's contention that he was insured from November 22 to December 31, 2019. In its e-mail response to CPED, Allied World explains that it filed its policy with the Commission at the end of November with the assistance of CPUC staff. However, considering that First Class Limo Services was only listed in the endorsement to Policy 6000-0755 as a covered entity, and Super Shuttle was the named insured, it is understandable that CPED overlooked this coverage.

Because Mr. Bekele was insured from November 22 to December 31, 2019, an Order of Suspension should not have been issued against his TCP, and the later Citation and fine of \$3,000 were unwarranted.

While we are dismissing this fine, we want to remind Allied World that, as an insurer, it bears a measure of responsibility for this circumstance in which its coverage – which reflected SuperShuttle as the insured – was not clearly associated with the covered entity on the Commission's records. We encourage Allied World and its insured, Super Shuttle to explore with CPED staff whether there are reporting options that can prevent this type of oversight in the future.

ASSIGNMENT OF THE PROCEEDING

Patricia B. Miles is the assigned ALJ for this proceeding.

COMMENTS

The draft resolution of Judge Miles in this matter was mailed [on September 10, 2021](#) in accordance with Section 311 of the Public Utilities Code and Rule 14.5. [No comments were served, therefore, this resolution is final.](#)

FINDINGS

1. Dawit Berhanu Bekele (Mr. Bekele) is an individual doing business as First Class Limo Services, a charter party carrier, under TCP 38190-B.
2. CPED received notification from Old Republic Title Company on October 25, 2019, that Mr. Bekele's policy #MWTB313138 would be cancelled effective November

23. Old Republic Title Company input electronic confirmation of the cancellation on November 19, 2019

3. CPED issued an order of suspension to Mr. Bekele as a result of the Old Republic Title electronic filings.

4. Mr. Bekele had coverage with Allied World under Policy 6000-0755 from November 22, 2019 through December 31, 2019.

5. CPED issued a citation and fine to Dawit Bekele on March 23, 2021 without knowledge of the Allied World coverage.

6. Mr. Bekele properly appealed the citation and fine on April 6, 2021.

7. The California Insurance Identification Card and Certificate of Liability Insurance that Mr. Bekele attached to his appeal are corroborated by policy documents that CPED received in the June 10, 2021 email response from Allied World.

CONCLUSIONS OF LAW

1. First Class Limo Service had liability insurance coverage issued by Allied World and did not violate Pub. Util. Code § 5379 by conducting operations between November 22, 2019, and December 31, 2019.

2. An Order of Suspension should not have been issued against First Class Limo Services.

3. Citation No. T.21-03-002, and the fine of \$3,000 were issued erroneously and should be dismissed.

Therefore, **IT IS ORDERED** that:

1. Citation No. T.21-03-002, and the fine of \$3,000 are dismissed.

2. Records of TCP 38190-B, which may be maintained by CPED for Mr. Bekele and First Class Limo Services, should be corrected to reflect that the Order of Suspension based on the Old Republic Title electronic filings was erroneous.

3. K.21-04-003 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 _____, the following Commissioners voting favorably thereon:

RACHEL PETERSON
Executive Director

ALJ/PM6/sgu

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

~~RESOLUTION ALJ-409—Resolves K.21-04-003 the Appeal of Dawit Berhanu Bekele d/b/a First Class Limo Services from March 23, 2021 Citation and Fine in the Amount of \$3,000.~~

INFORMATION REGARDING SERVICE

~~I have electronically served all persons on the attached official service list who have provided an e-mail address for K.21-04-003.~~

~~Upon confirmation of this document’s acceptance for filing, I will cause a copy of the filed document to be served by U.S. mail on all parties listed in the “Party” category of the official service list for whom no e-mail address is provided.~~

~~Dated September 10, 2021, at San Francisco, California.~~

~~/s/ SHANE GUTTO~~

~~Shane Gutto~~

~~N O T I C E~~

~~Persons 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.~~

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~~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.~~

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