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**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

August 16, 2022

**Agenda ID #20884**

**TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-422:**

This is the draft Resolution of Administrative Law Judge (ALJ) Margery Melvin resolving K.21-02-001. 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 Melvin at [mmv@cpuc.ca.gov](mailto:mmv@cpuc.ca.gov).

/s/ ANNE E. SIMON

Anne E. Simon  
Chief Administrative Law Judge

AES:sgu

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

Resolution ALJ-422  
Administrative Law Judge Division  
[Date]

**RESOLUTION**

RESOLUTION ALJ-422 Resolves the Appeal K.21-02-001 of Citation No. CPED F-5729 of Getu A. Bogale, doing business as (dba) Get Limo Service, issued on January 6, 2021 (TCP-32714).

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**SUMMARY**

This resolution resolves the appeal of Citation No. F-5729 issued on January 6, 2021, to Getu A. Bogale, doing business as (dba) Get Limo Service, by the California Public Utilities Commission's Consumer Protection and Enforcement Division. Citation No. F-5729 issued a fine of \$2,000 for violations of three sections of the Public Utilities Code and the Commission's General Orders. Citation No. F-5729 is affirmed, and the penalty in the amount of \$2,000 is sustained.

**BACKGROUND**

The California Public Utilities Commission (Commission) regulates charter-party carriers of passengers primarily pursuant to the Passenger Charter-Party Carriers' Act (Public Utilities (Pub. Util.) Code § 5351, et seq.) Pursuant to Resolution ALJ-187, issued by the Commission on September 22, 2005, Consumer Protection and Enforcement Division (CPED) 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 under Resolution ALJ-377.<sup>1</sup>

On January 6, 2021, CPED issued Citation F-5729 for violations of the Public Utilities Code and General Order 115-F to Getu A. Bogale (Bogale), an individual, doing business as (dba) Get Limo Service. The underlying investigation covered the period of November 14, 2019, through November 29, 2019.

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<sup>1</sup> The Commission issued Resolution ALJ-377 on April 28, 2020, for applications beginning July 1, 2020.

The citation was issued for violations during this period as follows:

1. Operated as a charter-party carrier and/or a passenger stage corporation (PSC) during a period of suspension in violation of Pub. Util. Code § 5379 [1 count]; and
2. Operated as a charter-party carrier without evidence of public liability and property damage (PLPD) insurance coverage in effect and on file with the Commission in violation of Pub. Util. Code §§ 5391, 5381, and General Order (GO) 115-F [1 count].

### APPEAL

Bogale filed a timely appeal of Citation F-5729 and the Commission granted the request for an appeal hearing. The appeal hearing was set for May 23, 2022 and conducted via video conference. Bogale and CPED appeared as parties at the scheduled hearing.

CPED offered the following Exhibits into evidence:

CPED-1	Class B Charter-Party Application November 1, 2016
CPED-2	Class B Charter-Party Certificate with Equipment Statement December 7, 2016
CPED-3	CPUC Passenger Carrier Equipment Statement (Form PL-664) April 25, 2017
CPED-4	Notice of Impending Suspension October 16, 2019
CPED-5	Order of Suspension November 14, 2019
CPED-6	SFO Airport Ground Transportation Administrative Citation, including Attached TCP Report November 29, 2019
CPED-7	Order of Revocation February 12, 2020
CPED-8	CPED Citation with Certificate of Service (COS) January 6, 2021
CPED-9	CPED Compliance Filing February 16, 2021
CPED-10	Carrier Equipment List May 16, 2022
CPED-11	Insurance Coverage
CPED-12	CPUC General Order 115-G, with requirements for Personal Liability & Property Damage ("PLPD")

CPED-13	Public Utilities Code Sections 5379, 5381, & 5391
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Bogale offered the following Exhibits into evidence:

Bogale-1	Rationale R1
Bogale-2	Supershuttle Notice (1)
Bogale-3	Supershuttle SF manager email (1)
Bogale-4	Insurance Coverage
Bogale-5	DMV Registration

### **RESOLUTION OF THE APPEAL**

#### **Violation of Pub. Util. Code § 5379**

Pub. Util. Code § 5379 reads in full as follows:

After the cancellation or revocation of a permit or certificate, or during the period of its suspension, or after the expiration of its permit or certificate, it is unlawful for a charter-party carrier of passengers to conduct any operations as a carrier. The commission may either grant or deny an application for a new permit or certificate whenever it appears that a prior permit or certificate of the applicant has been canceled or revoked pursuant to Section 5378 or whenever it appears, after hearing, that as a prior permit or certificate holder, the applicant engaged in any of the unlawful activities set forth in Section 5378 for which his or her permit or certificate might have been canceled or revoked.

CPED offered one witness, an Investigator with the Commission's Transportation Enforcement Branch (TEB) to testify on behalf of the CPED at hearing.<sup>2</sup> The CPED witness testified that on November 14, 2019, CPED mailed an Order of Suspension to Bogale, suspending Bogale's authority to operate as a charter-party carrier for failure to maintain adequate insurance.<sup>3</sup> Suspension was effective November 14, 2019.<sup>4</sup> The Investigator also testified that on November 29, 2019, SFO's Ground Transportation Unit (GTU) issued a citation<sup>5</sup> to Bogale for operating a vehicle as a charter-party carrier

<sup>2</sup> The CPED witness has been an investigative analyst with CPED's TEB for eight years.

<sup>3</sup> Order of Suspension. November 14, 2019. CPED-5

<sup>4</sup> Notice of Impending Suspension. October 16, 2019. CPED-4.

<sup>5</sup> SFO Airport Ground Transportation Administrative Citation. November 29, 2019. CPED-6.

while suspended by the Commission. The CPED witness testified that pursuant to Pub. Util. § 5739, Bogale was not authorized to operate as a charter-party carrier on November 29, 2019, because the Commission had suspended his authority to do so effective November 14, 2019.

Bogale was the sole witness testifying on his behalf at the hearing. Bogale testified that he received the Notice of Impending Suspension, and the Order of Suspension. Bogale testified that despite having received the notice and order, he operated his vehicle at SFO on November 29, 2019, as a charter-party carrier.

Based upon the evidence provided by the CPED (CPED-5, CPED-6, CPED-7, and CPED-8), the testimony of CPED's witness and the admission from Mr. Bogale, we find that Bogale operated as a charter-party carrier and/or a passenger stage corporation during a period of suspension in violation of Pub. Util. Code § 5379.

Violation of Pub. Util. Code §§ 5391, 5381 and G.O. 115-F

Pub. Util. Code Section 5391 provides:

The commission shall, in granting permits or a certificate pursuant to this chapter, require the charter-party carrier of passengers to procure, and to continue in effect during the life of the permit or certificate, adequate protection against liability imposed by law upon the charter-party carrier of passengers for the payment of damages for personal bodily injuries, including death resulting therefrom, protection against a total liability of the charter-party carrier of passengers on account of bodily injuries to, or death of, more than one person as a result of any one accident, and protection against damage or destruction of property. The minimum requirements for such assurances of protection against liability shall not be less than the requirements which are applicable to operations conducted under certificates of public convenience and necessity issued pursuant to the provisions of Article 2 (commencing with Section 1031), Chapter 5, Part 1, Division 1, of this code, and the rules and regulations prescribed pursuant thereto shall apply to charter-party carriers of passengers.

G.O. 115-F reads in pertinent part as follows:

(3) The certificate of insurance or bond evidencing such protection hereinabove required shall not be cancelable on less than thirty days' written notice to the Public Utilities Commission, such notice to commence to run from the date the notice is actually

received at the office of the Commission.

CPED testified that CPED received notice that Bogale's insurance coverage with Old Republic Insurance Company had been suspended effective November 14, 2019. The CPED further testified that CPED maintains a database of insurance records on charter-party carriers and is advised when a carrier's insurance becomes effective, is cancelled, and is reinstated. CPED also testified that pursuant to GO 115-G, all evidence of insurance must be electronically filed. On or about November 14, 2019, CPED learned that Bogale did not have PLPD insurance. As stated above, Bogale operated at SFO on November 29, 2019. We find that he completed that trip without an active PLPD policy in place.

At hearing, Bogale testified that he allowed his insurance policy with Old Republic Insurance Company to lapse in November 2019. He further testified that he believed he had insurance coverage through Super Shuttle in November 2019<sup>6</sup> when he joined that company as a business partner in 2015. Bogale testified that Super Shuttle told him that he no longer needed insurance through Old Republic because Super Shuttle would be obtaining PLPD insurance for all their drivers effective October 2019 for the period from October 2019 through December 2019. Bogale testified that Super Shuttle further advised him that after December 2019, all drivers would have to get their own insurance. Based on this, Bogale testified that he believed that he was insured and could operate his vehicle as a charter-party carrier in November 2019. Bogale admitted during his testimony that he did not contact CPED after he received the Notice of Impending Suspension, Order of Suspension or Order of Revocation regarding his PLPD insurance.

Had Bogale contacted CPED with this information, he would have learned that CPED's records did not show that he was insured as a driver for Super Shuttle. Commission regulations require that carriers electronically update their insurance records with the CPED. Absent this, there was no way for the CPED to have knowledge of Bogale's coverage as a Super Shuttle driver. Moreover, CPED had no way of reviewing the policy to determine that the policy met the requirements for PLPD insurance coverage in the amount required. Based on the testimony and evidence provided, we find that Bogale did not have the required PLPD coverage required of him as a charter-party carrier and, therefore, violated Pub. Util. Code § 5379 and GO 115-F while operating his vehicle as a charter-party carrier on November 29, 2019.

### **ASSESSMENT OF FINE**

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<sup>6</sup> At the hearing, Bogale offered as an exhibit a commercial general liability policy with Ategrity Specialty Insurance Company for \$1,000,000 and an umbrella policy with Fireman's Fund Insurance Company for \$9,000,000. Bogale-4.

In assessing the reasonableness of the \$2,000 fine, several factors must be considered. Decision (D.)98-12-075 sets forth the criteria for determining the reasonableness of a fine. Specifically, it is important to consider the following: 1) the severity of the economic or physical harm resulting from the violation; 2) the conduct to prevent, detect, disclose, and rectify the violation; 3) the financial resources of the party involved; 4) the public interest involved; 5) the totality of the circumstances; and 6) Commission precedents.

Using these criteria, we find that although the public was placed at risk, Bogale was fortunate that there was no physical or economic harm because of these violations. We remain concerned that Bogale received multiple notices from CPED informing him of the suspension/revocation of his operating permit along with the potential consequences for continued operation but failed to respond and instead operated without authority on November 29, 2019 in disregard of his regulatory obligations. As a result, we find that a fine of \$2,000 is reasonable.

### **SAFETY**

The Commission has broad authority to regulate charter-party carriers, particularly regarding safety concerns. (*See* for example, Pub. Util. Code §§ 451, 5382 and 5387.) We are mindful that the statutory schemes under which this citation was issued in this case for failure to maintain adequate liability insurance and continuing to operate as a charter-party carrier following suspension/revocation of his operating authority are intended to secure the safety of charter-party carrier passengers.

### **COMMENTS**

Pub. Util. Code § 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 the service list.

### **FINDINGS**

1. CPED issued Citation No. F-5729 to Getu A. Bogale on January 6, 2021.
2. The Citation, a fine of \$2,000, is for the following violations:
  - a. Operated as a charter-party carrier and/or a passenger stage corporation (PSC) during a period of suspension in violation of Pub. Util. Code § 5379 [1 count]; and

- b. Operated as a charter-party carrier without evidence of public liability and property damage (PLPD) insurance coverage in effect and on file with the Commission in violation of Pub. Util. Code §§ 5391, 5381, and GO 115-F [1 count].
3. On November 29, 2019, Bogale operated as a charter-party carrier and/or a passenger stage corporation during a period of suspension at SFO.
4. Bogale did not have the required PLPD insurance on file with the Commission in effect on November 29, 2019, or during the Investigation Period.

**THEREFORE, IT IS ORDERED that:**

1. The violations in Commission's Consumer Protection and Enforcement Division Citation No. F-5729 are affirmed, and the appeal is denied.
2. The penalty in Citation No. F-5729 in the amount of \$2,000 is sustained.
3. Getu A. Bogale, doing business as (dba) Get Limo Service (Appellant) must pay the penalty of \$2,000 by check or money order within 30 days of the effective date of this order. The check must be payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, San Francisco, California 94102.
4. K.21-02-001 is closed.
5. 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:

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Rachel Petersen  
Executive Director



ALJ/MMV/sgu

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

RESOLUTION ALJ-422 Resolves the Appeal K.21-02-001 of Citation No. CPED F-5729 of Getu A. Bogale, doing business as (dba) Get Limo Service, issued on January 6, 2021 (TCP-32714).

**INFORMATION REGARDING SERVICE**

I have electronically served all persons on the attached official service list who have provided an e-mail address for K.21-02-001.

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 August 16, 2022, at San Francisco, California.

/s/ SHANE GUTTO

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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.

Resolution ALJ-422 ALJ/MMV/sgu

\*\*\*\*\* PARTIES \*\*\*\*\*

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Last Updated on 16-AUG-2022 by: KB3

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