

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Enforcement Division RESOLUTION TL-19146
July 13, 2023

RESOLUTION

RESOLUTION RESCINDING COMMISSION RESOLUTION TL-19116
THAT REVOKED THE OPERATING AUTHORITY OF DAN LIVIU
IONESCU (TCP 11395-P)

SUMMARY

This resolution rescinds Commission Resolution TL-19116 that revoked the operating authority of Dan Liviu Ionescu (TCP 11395-P). This action is being taken due to the courts expunging the convictions that served as grounds for the revocation.

BACKGROUND

Dan Liviu Ionescu (Ionescu) was issued Transportation Charter-party Carrier (TCP) Permit 11395-P on October 23, 1997.¹ On January 5, 2012, the California Public Utilities Commission's (Commission or CPUC) Consumer Intake Unit received a complaint that Ionescu had fraudulently charged more than \$15,000 on the complainant's credit card. A subsequent investigation by the Commission's Transportation Enforcement Branch (TEB) discovered that Ionescu was previously convicted twice: in 2003 for insurance fraud and presenting a false statement and in 2009 for grand theft.

In 2003, Ionescu was convicted of three counts of insurance fraud for presenting false statement in violation of California Penal Code ("PC") § 550(b)(1). As a result, Ionescu received a sentence of 210 days in jail and probation for a period of 3 years from the date of the order.²

¹ Several Commission documents misspell the last name as "Ionesco."

² Superior Court of the County of Contra Costa, Docket No. 158181-8.

In addition, Ionescu received an administrative citation from the Commission in May 2003 for operating after his permit had been revoked for failing to have personal liability and property damage insurance on file and, as a result, Ionescu was fined \$5,000.³

In 2009, Ionescu was convicted of violating of PC § 487.⁴ As a result, Ionescu was sentenced to 20 days of jail and probation for 3 years from the date of the order.⁵

In 2012, for various violations of the California Public Utilities (Pub. Util.) Code, Ionescu was fined \$1,500.⁶

In 2013, Ionescu was convicted of violating PC § 484(g)⁷ and PC § 530.5(a).⁸ He received a sentence of 210 days in jail and probation for 3 years from the date of the conviction.⁹

Pub. Util. Code § 5378(a)(3) states that “[t]he [C]ommission may cancel, revoke, or suspend any operating permit or certificate issued pursuant to this chapter upon certain grounds...”, one of which is “[t]he conviction of the charter-party carrier or its officers of a felony while holding operating authority issued by the

³ TL-19116, Pg. 1.

⁴ Grand theft is theft committed in any of the following cases: (a) When the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars (\$950), except as provided in subdivision (b).

⁵ Superior Court of the County of Contra Costa, Docket No. 01-141641-1.

⁶ Resolution TL-19116, pages 1-2.

⁷ PC § 484(g). “Every person who, with the intent to defraud, (a) uses, for the purpose of obtaining money, goods, services, or anything else of value, an access card or access card account information that has been altered, obtained, or retained in violation of Section 484e or 484f, or an access card which he or she knows is forged, expired, or revoked, or (b) obtains money, goods, services, or anything else of value by representing without the consent of the cardholder that he or she is the holder of an access card and the card has not in fact been issued, is guilty of theft. If the value of all money, goods, services, and other things of value obtained in violation of this section exceeds nine hundred fifty dollars (\$950) in any consecutive six-month period, then the same shall constitute grand theft.”

⁸ PC § 530.5(a). “Every person who willfully obtains personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.”

⁹ Superior Court of the County of Contra Costa, Docket No. 3-209579-2.

Commission, limited to robbery, burglary, larceny, fraud, or intentional dishonesty for personal gain.”

In 2014, by Commission Resolution TL-19116, Ionescu’s TCP Permit 11395-P was suspended. Resolution TL-19116 also revoked the permit after 30 days had passed. Commission Decision (D.) 15-01-018 granted Ionescu a limited rehearing due to the lack of evidence that Ionescu had been properly noticed on the Resolution as required by Pub. Util. Code § 311(g)(1). D.15-01-018 granted Ionescu ten days to file for a review of the revocation of his permit. On February 9, 2015, Commission Executive Director Timothy J. Sullivan (Sullivan) wrote to Ionescu stating that he had provided “...no fact or information to indicate that the Commission's action was in error or warrant further review.”

Sullivan goes on to state:

As stated in both Resolution TL-19116 and D.15-01-018, Commission records reflect that Premier Transportation has been cited for numerous violations of Commission statutes. In addition, Court records reflect that you have received three felony convictions related to fraudulent activities. The violations merit permit suspension and revocation pursuant to Public Utilities Code section 5337(a)(3).

Because your letter does not discount the violation, this letter denies your request for further review and affirms the permit suspension and permanent revocation ordered in Resolution TL-19116 and as set forth by the Commission in D.15-01-018.

Commission Resolution L-317 states: “Any charter-party carrier whose permit or certificate is suspended and revoked pursuant to Section 5378(a)(3) that wishes to obtain a certificate or permit shall reapply for the desired authority.”¹⁰

Ionescu contacted Commission staff expressing his desire to reinstate his TCP permit. In January 2022, Ionescu submitted a Petition for Modification (PFM) of TL-19116 stating, “The Petition is based on new facts that render the grounds for revocation of Premier’s charter-party carrier permit invalid.”

¹⁰ Resolution L-317, Paragraph 9.

On January 25, 2022, Ionescu submitted a Petition for Modification of Resolution TL-19116. Ionescu provided Commission staff with evidence that his felony convictions have been reduced to misdemeanors and subsequently dismissed and expunged from his record along with a letter from the Clean Slate Unit of the Contra Costa Public Defender's Office. Attached to the petition was a signed declaration stating, "I have worked diligently to reestablish my reputation in order to resume operations of Premier Transportation. I have successfully completed probation and subsequently have not had any type of law violations."

Dismissal of Charges

PC § 17 allows for the court to classify a crime from a felony to a misdemeanor under certain circumstances.¹¹ PC § 1203.4 allows the court to set aside the guilty verdict of anyone who has fulfilled the terms of their probation.¹²

Court records show that Case Number 03-209579-2, for three felony convictions of PC § 550(b)(1),¹³ were reduced to misdemeanors and that three criminal cases, Case Numbers 03-209579-2, 158181-8, and 01-141641-1, all had their "... pleas of guilty, nolo contendere, or verdicts of findings of guilt... set aside and vacated and a plea of not guilty... entered and that the complaint or information..., and it hereby, dismissed..." on October 1, 2018.

DISCUSSION

The Commission has the duty to protect the public from harm. At this time, the question is whether there is risk to the public if Ionescu were to be granted authority again to operate as a transportation charter-party carrier. Ionescu has had three felony convictions over a period of ten years. His last conviction, on February 14, 2013, was nine years ago. Ionescu produced court records showing

¹¹ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=17.

¹²

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=1203.4.

¹³ PC § 1203.4(1)(a) states in part: "However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve them of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission."

that the courts dismissed the convictions in 2018. The records serve as evidence that Ionescu has served his sentence and completed probation that included court-ordered restitution. Ionescu declared that he has not been charged with, or alleged to have committed any crimes, besides those listed above.¹⁴

While the Commission has not adopted broadly applicable criminal background check requirements for TCP drivers,¹⁵ the Commission has required background checks for drivers operating on the online-enabled applications and platforms of Transportation Network Companies (TNCs). D.13-09-045 states in relevant part:

TNCs shall perform criminal background checks on each TNC driver before the driver begins offering service. In order to protect public safety, any person who has been convicted, *within the past seven years*, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror shall not be permitted to provide TNC services.¹⁶ [emphasis added]

The California State Legislature (Legislature) added to this requirement by amending Pub. Util. Code § 5445.2:

(a)(3) A transportation network company shall not contract with, employ, or retain a driver if the driver has been convicted of any of the following offenses within the previous seven years:

(D) A felony violation of Section 18540 of the Elections Code, or of Section 67, 68, 85, 86, 92, 93, 137, 138, 165, 518, or 530 of, subdivision (a) of Section 484 of, or subdivision (a) of Section 487 of, the Penal Code.

While Ionescu has convictions under PC §§ 484 and 487 which, at one time, would have prohibited him from contracting with a TNC as a driver, the convictions have

¹⁴ DECLARATION OF DAN LIVIU IONESCU DBA PREMIER TRANSPORTATION IN SUPPORT OF PETITION FOR MODIFICATION FOR COMMISSION RESOLUTION TL-19116 (2014).

¹⁵ D.97-07-063 and Pub. Util. Code § 5382 require a fingerprint based criminal background check for carriers that specialize in transporting children, but Ionescu was not in the business of transporting children.

¹⁶ D.13-09-045, Safety Requirement e, Pg. 27.

been expunged. Furthermore, the amount of time that has elapsed since the convictions – more than nine years – is long enough that the prohibitions under Pub. Util. Code § 5445.2 would no longer apply to a TNC driver. While no similar criminal background requirements exist for TCP drivers, it is instructive to review the requirements for other passenger carriers subject to the Commission's jurisdiction.

In 2022, the Legislature also passed Senate Bill (SB) 731 which, commencing July 1, 2023, seals most criminal records (with certain exceptions) after four years as long as there are not any subsequent convictions.¹⁷ SB 731 signals the Legislature's intent to give those that have criminal records an opportunity for a second chance.

Because the courts have expunged his records and nearly ten years have passed since Ionescu's convictions, Ionescu should be allowed to reapply and, upon successful completion of the licensing requirements, to be granted a charter-party carrier authority.

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code § 311(g), the Commission's Consumer Protection and Enforcement Division (CPED) commenced publication of a Daily Calendar notice on June 8, 2023, that apprised the public of the availability of its draft of this resolution and solicited submission of comments by June 28, 2023. No comments were received.

FINDINGS

1. Ionescu was convicted on October 9, 2003 for three felony violations of PC § 550(b)(1).
2. Ionescu was convicted on July 8, 2009 for violating PC § 487, a felony.
3. Ionescu was convicted on February 14, 2013 for violating PC §§ 484(g) and 530.5(a), both felonies.

¹⁷ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB731.

4. The Commission cited Ionescu in May 2003 for failure to have personal liability and property damage insurance on file and in December 2012 for various violations of the Pub. Util. Code.
5. On August 28, 2014, Commission Resolution TL-19116 suspended Ionescu's operating authority for convictions of PC §§ 484g and 530.5(a) to be revoked thirty days later.
6. Commission Decision 15-01-018 granted Ionescu a limited rehearing due to the lack of evidence that Ionescu had been served with the draft Resolution. Resolution TL-19116 was upheld due to a lack of evidence that the Commission's action was in error or warranted further review.
7. Ionescu provided evidence to CPED from the Clean Slate Unit of the Contra Costa Public Defender's Office along with court records showing that his convictions had been expunged.
8. While there are not any requirements for criminal background checks for TCP drivers, other than those specializing in transporting children pursuant to D.97-07-063 and Pub. Util. Code § 5382, TNC drivers undergo a criminal background check that searches for convictions in the past seven years.
9. Ionescu's convictions were more than seven years ago.
10. SB 731 will seal most criminal convictions after four years barring any subsequent convictions beginning July 1, 2023.
11. The applicant's request is reasonable and should be granted.

THEREFORE, IT IS ORDERED that:

1. Commission Resolution TL-19116 is rescinded, allowing the former licensee to apply for a Transportation Charter-Party permit or certificate.
2. Dan Liviu Ionescu (Ionescu) shall be allowed to apply for a Transportation Charter-Party permit or certificate. Upon successful completion of the licensing

requirements set forth in the Public Utilities Code and Commission General Orders and Resolutions, the authority shall be granted.

3. Ionescu shall comply with all laws and Commission orders, regulations, and insurance requirements.
4. Ionescu shall make available all records and vehicles upon request of the Commission's Transportation Enforcement Branch.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on July 13, 2023.

The following Commissioners voted favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson
Executive Director

ALICE REYNOLDS
President

GENEVIEVE SHIROMA
DARCIE HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners