

## Agenda: Item 9

Consideration of Hearing Officer's Recommendation in Taxi Commission v. Ikarouien [ACTON]

- Consideration of Recommendation to Re-Hear Case for Violations of Rules 6.A.1, 6.D.1, 6.D.2, 6.D.3, MPC § 1141, California Penal Code §§ 211, 243(d), and 591.5 and Uphold Summary Suspension Pending Re-Hearing

1 TAXI COMMISSION

2 CITY AND COUNTY OF SAN FRANCISCO

3 ADMINSTRATIVE HEARING DECISION

4 Hearing Officer: Julie Rosenberg, Esq.

5 Hearing Date: October 3, 2008

6 #1 Dr. Carlton B. Goodlett Place, SF, CA 94121, Room 408

7 Case: Hakim Ikarioun

8 Type of Permit: Public Passenger Vehicle Permit (P44-055406)

9 I. Procedural History:

10 On April 30, 2008, the SFPD Taxi Detail ("the Detail")  
11 summarily suspended Hakim Ikarioun's A-Card (P44-055406). The  
12 basis for the suspension was the allegation that Mr. Ikarioun  
13 strangled a female passenger over a fare dispute.

14 Mr. Ikarioun did not request a hearing in response to the  
15 summary suspension.

16 On 9/21/08, the Director of the Commission, Ms. Jordanna  
17 Thigpen, called Mr. Ikarioun by telephone and asked if it was  
18 acceptable to have the revocation hearing on Friday, 10/3/08.  
19 According to Ms. Thigpen, Mr. Ikarioun agreed to the hearing  
20 date. Ms. Thigpen informed Mr. Ikarioun that the complaint  
21 would be ready to be picked up on Thursday, 9/25/08<sup>1</sup> from the  
22 Commission offices located at 25 Van Ness in San Francisco.

23 According to Ms. Thigpen, she gave Mr. Ikarioun the option of  
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<sup>1</sup> The complaint is dated 9/26/08.

1 either picking up the complaint or having it mailed.<sup>2</sup> He declined  
2 to have it mailed and chose to eventually pick it up on  
3 Wednesday, 10/1/08. At that time, Mr. Ikarioun requested that  
4 the hearing be continued so that he would have time to retain  
5 legal counsel. Ms. Thigpen stated that the hearing officer would  
6 decide whether or not to grant a continuance.  
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8 At the hearing on 10/3/08, the Commission presented its  
9 case, which included the testimony of the alleged victim and  
10 Sergeant Ron Reynolds of the Detail. After the presentation of  
11 the case, Mr. Ikarioun requested a continuance so that he could  
12 hire an attorney. The hearing officer was not aware that Mr.  
13 Ikarioun wanted a continuance until he asked at the hearing. A  
14 continuance was not granted at that time and Mr. Ikarioun  
15 refused to testify.  
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18 Upon further consideration by the hearing officer, due  
19 process requires that the case be reheard. Given that the  
20 complaint was issued five business days before the hearing, the  
21 hearing officer believes that Mr. Ikarioun did not have adequate  
22 time to prepare.  
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24 Neither the Municipal Police Code, ("MPC"), nor the Taxicab  
25 Rules and Regulations specifically address the method or  
26 timeframe in which complaints must be served for administrative  
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28 <sup>2</sup> At the hearing on 10/3/08, Mr. Ikarioun stated that Ms. Thigpen did not give him the option of having the complaint mailed.

1 hearings that take place before hearing officers. MPC section  
2 1188(d) indicates that written submittals must be received by  
3 the hearing officer at least five business days prior to the  
4 hearing.<sup>3</sup> If the party against whom charges are brought received  
5 the complaint only five days before the hearing, it would be  
6 impossible for that party to adequately respond to the charges  
7 and comply with 1188(d).  
8

9 It is instructive to look to the Taxi Commission Hearing  
10 Procedures for cases that go before the full Commission.  
11 Pursuant to Part I.B., "[t]he Commission Secretary shall  
12 schedule a hearing in front of the Commission no sooner than  
13 four weeks after the complaint is sent to the permit holder."  
14 Part I.B. indicates that "[t]he permit holder is entitled to a  
15 one-month continuance of the hearing as a matter of right, if a  
16 written request is submitted to the Commission at least two  
17 weeks prior to the hearing." Mr. Ikarioun did not have two weeks  
18 prior to the hearing in which to request a continuance because  
19 the complaint was issued only five business days before the  
20 hearing. Had the Commission procedures been applied in this  
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26 <sup>3</sup> Section 1188(d) states: "Submittals for the Hearing. At least 5 business  
27 days prior to the hearing, the parties to the hearing shall submit written  
28 information to the hearing officer including, but not limited to, the  
following: a statement of the issues to be determined by the hearing officer,  
a statement of the evidence to be offered at the hearing and the identity of  
the any witnesses to appear at the hearing. The written information shall  
not exceed 10 double-spaced pages, including exhibits."

1 case, Mr. Ikarioun would have more time to retain legal counsel  
2 and prepare a response to the charges.

3 **II. Recommendation**

4 The Case should be reheard before the Taxi Commission or a  
5 hearing officer other than Julie Rosenberg.  
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10 Julie Rosenberg  
11 Julie Rosenberg, Esq.  
12 Hearing Officer

10/6/08  
Date

1 TAXI COMMISSION

2 CITY AND COUNTY OF SAN FRANCISCO

3 ADDENDUM TO ADMINISTRATIVE HEARING RECOMMENDATION DATED 10/6/08

4 Hearing Officer: Julie Rosenberg, Esq.

5 Hearing Date: October 3, 2008

6 #1 Dr. Carlton B. Goodlett Place, SF, CA 94121, Room 408

7 Case: Hakim Ikarioun

8 Type of Permit: Public Passenger Vehicle Permit (P44-055406)

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10 Addendum: The Hearing Officer recommends that the summary  
11 suspension of Hakim Ikarioun's permit (P44-055406) remain in  
12 effect.

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14 Julie Rosenberg  
15 Julie Rosenberg, Esq.

16 10/9/08  
Date