

Agenda: Item 10

Consideration of Hearing Officer's Recommendations in Taxi Commission v. Rahimi (Rahimi II) [ACTION] - Consideration of Hearing Officer's Decision to Revoke P-16 1135 and P-44 Taxi Driver ("A-card") Permit 62705 held by Bashir Rahimi for violations of Rules 4.A.1, 6.D.1 and 6.E.1

CITY AND COUNTY OF
SAN FRANCISCO



TAXI COMMISSION
MAYOR GAVIN NEWSOM

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JORDANNA THIGPEN, EXECUTIVE DIRECTOR

TO: Honorable Commissioners
FROM: Jordanna Thigpen
RE: Items 7, 8, 9, and 10 on the agenda
Date: 9.19.8

Due to the voluminous nature (>300 pages) of the cases that are on for tonight's hearing, the Commission has attached the hearing officer's decision only to the complaint for Items 7, 8, 9, and 10.

Copies of the case are available at the Commission office. Commissioners have been requested to come to the office and review the documents. Copies will be available at the Commission hearing for public viewing.

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TAXI COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
ADMINISTRATIVE HEARING DECISION

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Hearing Officer: Julie Rosenberg, Esq.
Hearing Date: September 12, 2008
#1 Dr. Carlton B. Goodlett Place, SF, CA 94121, Room 408
Case: Sayed Bashir Rahimi
Type of Permit: Medallion #1135 and Driver Permit #62705

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I. Facts

DAJA International ("DAJA") is a company at San Francisco International Airport ("SFO") that manages the dispatch of shuttle vans, taxicabs and limousines.

The DAJA Operations Manager, Ms. Emma Perez, indicated that there were two exchanges she had with Mr. Rahimi which caused her to fear for her safety.

The first incident occurred in June 2007 when she refused to refund money to Mr. Rahimi for parking in the airport garage.¹ According to Ms. Perez, Mr. Rahimi became angry and stated "I'm going to get you."

The second incident took place on 8/12/08. Mr. Rahimi went to the DAJA Office at SFO to obtain records related to his taxicab, #1135.²

¹ According to Ms. Perez, Mr. Rahimi believed he was entitled a reduced rate or "short." If a taxi has already entered the garage for a particular day and the vehicle returns to the airport within 30 minutes of exiting at the cashier's booth, that taxi can go to the front of the line in what is known as a "short." The driver pays a reduced price at the point of exit.

² More specifically, Mr. Rahimi wanted the electronic trip records which show when his cab entered and exited the SFO garage. The records were to be used by Mr. Rahimi to defend against separate charges filed by the Commission which allege that Mr. Rahimi failed to fulfill the full-time driving requirement. A hearing on those charges was held on April 18, 2008 and a decision issued on September 10, 2008.

1 Ms. Perez told him that she did not have the records and
2 that he should contact Landside Operations, a division of
3 SFO. According to Ms. Perez, Mr. Rahimi became angry and
4 stated that she was purposefully hiding the records and she
5 was one of the people making a sexual harassment charge
6 against him (in the separate case which was heard on
7 4/18/08). According to Ms. Perez, Mr. Rahimi told her: "I'm
8 going to get you one way or another."

9 Mr. Rahimi denies ever making such comments. With
10 respect to the second incident, he stated that Ms. Perez
11 misunderstood him because of his accent. Mr. Rahimi claims
12 that he was referring to the airport records and that he
13 said "I'm going to get them one way or another."

14 Restraining Order

15 On 8/15/08, three days after the second alleged
16 incident, Ms. Perez filed for a temporary restraining order
17 against Mr. Rahimi in the San Mateo Superior Court. A
18 hearing was held on the matter on 9/3/08. The judge issued
19 a "Personal Conduct Order" on 9/4/08 which prohibits Mr.
20 Rahimi from having any contact with Ms. Perez until 3/3/09.
21 The judge did not issue a "Stay Away Order," i.e Mr. Rahimi
22 is allowed to go the DAJA offices and be within the
23 vicinity of Ms. Perez, but is not allowed to have contact
24 with her. The judge specifically told Mr. Rahimi to deal
25 with another DAJA agent if he has legitimate business
26 there. ³

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28 ³ The Order also states "This order is inadmissible in, and not to be considered for any purpose in the pending administrative proceeding that Mr. Rahimi has with the SF Airport Commission." The hearing officer believes the

1 **II. Summary Suspension of Mr. Rahimi's Medallion and Driver**
2 **Permit**

3 Pursuant to Municipal Police Code section 1090(c), the
4 Commission summarily suspended Mr. Rahimi's Medallion (#1135)
5 and A-Card (#62705) on August 20, 2008.

6 Section 1090(c) states in part: "The Chief of Police may
7 suspend summarily any permit issued under this Article pending
8 a disciplinary hearing before the Police Commission when in
9 the opinion of said Chief of Police the public health or
10 safety requires such summary suspension."

11 The Commission alleges that summary suspension is warranted
12 because: (1) Mr. Rahimi's behavior has been escalating in
13 severity with regards to Ms. Perez and other female employees
14 at the Airport,⁴ (2) Mr. Rahimi sexually harassed SFPD Officer
15 Lily Ng in March 2008, and (3) Mr. Rahimi harassed two
16 unidentified females during a taxi ride in October 2007.

17 The Commission alleges that as a result of these incidents,
18 a Temporary Restraining Order was issued against Mr. Rahimi
19 for a violation of Penal Code section 422⁵.

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22 judge was referring to the Taxi Commission hearing that is the subject matter
23 of this decision. Of course the order can be considered and the hearing
24 officer believes it supports the lifting of the summary suspension because it
25 is not a "Stay Away Order."

26 ⁴ The Commission does not identify the other employees.

27 ⁵ Section 422 states: "Any person who willfully threatens to commit a crime
28 which will result in death or great bodily injury to another person, with the
29 specific intent that the statement, made verbally, in writing, or by means of
30 an electronic communication device, is to be taken as a threat, even if there
31 is no intent of actually carrying it out, which, on its face and under the
32 circumstances in which it is made, is so unequivocal, unconditional,
33 immediate, and specific as to convey to the person threatened, a gravity of
34 purpose and an immediate prospect of execution of the threat, and thereby
35 causes that person reasonably to be in sustained fear for his or her own
36 safety or for his or her immediate family's safety, shall be punished by

1 The restraining order was civil, not criminal, and there is
2 no indication the judge issued it based on section 422.⁶

3 Furthermore, only the incidents with Ms. Perez were the basis
4 for the order. No criminal charges have been filed against Mr.
5 Rahimi for this alleged incident.

6 With respect to Officer Ng, Hearing Officer Rosenberg
7 previously found that harassment had not been established. See
8 decision, dated 9/10/08, for the hearing held on 4/18/08 for
9 Second Amended Complaint against Mr. Rahimi, dated 3/21/08.

10 With respect to the unidentified female passengers, Hearing
11 Officer Rosenberg previously found that Mr. Rahimi has already
12 been disciplined for the incident in March 2008 when he
13 attended Taxi School. See Hearing Decision dated 9/10/08 by
14 Hearing Officer Rosenberg. Ms. Thigpen, Director of the Taxi
15 Commission, acknowledged at the hearing on 9/12/08 that Mr.
16 Rahimi had already been disciplined for the October 2007
17 incident and that the facts of that incident, by themselves,
18 did not warrant a summary suspension of Mr. Rahimi's permits.

19 The Commission also alleges that Mr. Rahimi violated
20 SF Taxicab Rules and Regulations 6.D.1 and 6.D.2.

21 Section 6.D.1 provides: "No Taxicab Driver shall speak in
22 an obscene, boisterous, loud, threatening, or abusive manner
23 while in the course of their employment as a Taxicab Driver."

24 (emphasis added).

27 imprisonment in the county jail not to exceed one year, or by imprisonment in
28 the state prison."

⁶ Although, Ms. Perez cited section 422 when she filed the request for the
Temporary Restraining Order.

1 Section 6.D.2 provides: "No Taxicab Driver shall
2 threaten, harass or abuse any other person while in the course
3 of their employment as a Taxicab Driver." (emphasis added).

4 Finding: Rules 6.D.1 and 6.D.2 only apply to Drivers "while
5 in the course of their employment as a Taxicab Driver." Mr.
6 Rahimi was not driving, nor was he "employed" i.e. being paid
7 to drive at the time of the incident with Ms. Perez.
8 Consequently, Mr. Rahimi did not violate these rules.

9 **III. Hearing Officer's Recommendation**

10 The San Mateo Superior Court judge that issued the
11 restraining order did not believe that Mr. Rahimi posed a
12 physical threat to Ms. Perez. This is evidenced by the fact
13 that he only issued a "Personal Conduct" order, not a "Stay
14 Away Order."⁷

15 Mr. Rahimi does not have a history of violence against
16 women or passengers during his almost ten years as a taxicab
17 driver in San Francisco.

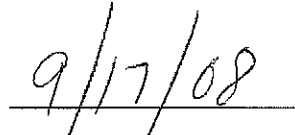
18 The two incidents described by Ms. Perez, which
19 occurred more than one year apart, do not establish that there
20 is escalated aggression by Mr. Rahimi towards Ms. Perez.

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23 ⁷ It is also noteworthy that the judge did not want the decision considered in
24 the pending administrative action.
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1 The Taxi Commission has not established, by a
2 preponderance of the evidence, that Mr. Rahimi poses a threat
3 to public health or safety.

4 Given the foregoing, the hearing officer recommends
5 that the summary suspension of Mr. Rahimi's permits be lifted.
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9 
10 Julie Rosenberg, Esq.


Date

11 Hearing Officer
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