

## Agenda: Item 7

Consideration of Hearing Officer's Recommendation in Taxi Commission v. Scott Van Leuven, Permit # 675 [ACTION]

- Consideration of Decision to Lift Summary Suspension Issued for Violations of Rules 4.A.1 and 4.A.3 (allowing unlicensed and suspended driver to operate his taxicab vehicle)

1 TAXI COMMISSION

2 CITY AND COUNTY OF SAN FRANCISCO

3 ADMINSTRATIVE HEARING DECISION

4 Hearing Officer: Julie Rosenberg, Esq.

5 Hearing Date: September 19, 2008

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

7 Case: Scott Van Leuven

8 Type of Permit: Medallion #675

9 I. Facts

10 Medallion Holder #675, Scott Van Leuven, allowed Driss  
11 Ellassali to drive under Medallion #675.

12 On 8/22/08 Sergeant Reynolds of the San Francisco Taxi  
13 Detail (the "Detail") suspended Mr. Ellassali's A-card (permit  
14 #52819) because Mr. Ellassali had a suspended or revoked  
15 California driver's license. Apparently Mr. Ellassali failed  
16 to appear for a moving violation and a notice of the  
17 suspension was mailed to him on 6/19/08.<sup>1</sup> Sergeant Reynolds  
18 told Mr. Ellassali that he was not permitted to operate any  
19 vehicle, including a taxicab.

20 *Sergeant Reynolds did not notify any color scheme or*  
21 *medallion holders that Mr. Ellassali's A-Card and California*  
22 *driver's license had been suspended.*

23 On 8/31/08, Mr. Ellassali drove cab #675 into an SFPD DUI  
24 check point, and it was discovered that Mr. Ellassali was  
25 unlicensed. Consequently, Medallion #675 was seized, Mr.  
26 Ellassali was cited for driving without a license, and the cab  
27 was towed pursuant to the City's S.T.O.P. Program (SF Traffic  
28 Offender Program).

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<sup>1</sup> It is not clear on which date the driver's license was actually suspended.

1       **II. Summary Suspension of Medallion #675**

2           Pursuant to Municipal Police Code Section 1090(c) the  
3       Detail summarily suspended Medallion #675 on 9/2/08. Section  
4       1090(c) states, in part: "The Chief of Police may suspend  
5       summarily any permit issued under this Article pending a  
6       disciplinary hearing before the Police Commission when in the  
7       opinion of said Chief of Police the public health or safety  
8       requires such summary suspension."

9           The Taxi Commission ("Commission") requests suspension of  
10       Medallion #675 for the following reasons: (1) Mr. Van Leuven  
11       illegally operated a vehicle for hire, (2) he allowed an  
12       unlicensed driver to operate his taxicab, which created a  
13       danger to public safety, (3) criminal behavior<sup>2</sup>, and (4) he  
14       was not in compliance with the Taxicab Rules and Regulations.

15           Based on a discussion with the Commission staff at the  
16       hearing, the hearing officer understands that the Commission's  
17       basis for this summary suspension is the fact Mr. Van Leuven  
18       allowed an unlicensed driver to drive taxicab #675. The  
19       Commission further stated that Mr. Van Leuven allowed Mr.  
20       Elassali to broker the medallion and therefore, Mr. Van Leuven  
21       had, in effect, given up control of the medallion.

22           The hearing officer asked the Commission what Mr. Van  
23       Leuven could have done differently so that he would have been  
24       aware of the suspended license. The Commission suggested that  
25       if there had been a written lease (between Van Leuven and  
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27       <sup>2</sup> The Commission did not present any evidence of criminal behavior, and it is  
28       unclear why this allegation is in the complaint.

1 Ellassali), which imposed an affirmative obligation on the part  
2 of Ellassali to report if his license was suspended, then the  
3 incident would have been less likely to occur.

4 The hearing officer disagrees. Mr. Ellassali knowingly  
5 drove his cab with a suspended license after being directed  
6 not to do so by Sergeant Reynolds. It is highly unlikely a  
7 contract provision would compel him to disclose his unlicensed  
8 status to Mr. Van Leuven.

9 Although the Detail does not have an affirmative obligation  
10 to notify Color Scheme and Medallion holders if an A-Card or  
11 driver's license has been suspended, it would have been a  
12 prudent course of action.

13 It was established at the hearing that Mr. Van Leuven did  
14 not have knowledge that Mr. Ellassali was unlicensed.  
15 Consequently, he did not knowingly cause a threat to public  
16 safety.

17 If the Commission wants to charge Mr. Van Leuven for non-  
18 compliance with the rules pertaining to how he manages the  
19 medallion, then those charges should be addressed in a  
20 separate complaint.

21 **Finding: The hearing officer finds that the public**  
22 **health and safety is not threatened if Medallion #675 is in**  
23 **operation.**

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1           **IV. Hearing Officer's Recommendation**

2           The hearing officer recommends that the summary  
3 suspension of Medallion #675 be lifted.

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6           *Julie Rosenberg*

7           Julie Rosenberg, Esq.

8           Hearing Officer

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