

Consent: Item B

Consideration of Hearing Officer's Recommendation in Taxi Commission v. Dev Narewatt, List # 6-568 [ACTION]

- Consideration to deny applicant P16 permit for failing to meet the full-time driving requirement for years 2006, 2007 and 2008 and, fabrication of many waybills.

1 TAXI COMMISSION

2 CITY AND COUNTY OF SAN FRANCISCO

3 ADMINISTRATIVE 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: Dev Narewatt, Qualification Hearing for a P-16 (medallion)
8 Permit

9 I. Application for a Medallion

10 On July 9, 2008, Mr. Narewatt submitted an application to
11 the Taxi Commission ("Commission") for a taxicab (P-16) permit
12 also known as a medallion. See Exhibit A, Narewatt Application.
13 Pursuant to Municipal Police Code ("MPC") §1079(i) a hearing was
14 conducted on October 3, 2008 to determine Mr. Narewatt's
15 eligibility for the permit.¹

16 II. Full-Time Driving Requirement

17 In order to qualify for a medallion, Mr. Narewatt must
18 establish, *inter alia*, that he has been a full-time driver
19 during any three calendar years from 2005 to 2008, inclusive.²
20 The burden of proof is on Mr. Narewatt to show that he has the
21 necessary driving experience.³

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26 ¹ There was a delay in issuing this recommendation because the hearing
27 officer was waiting to receive foundational documents for the two sets of
28 airport records submitted. The hearing officer received the necessary
documents on 11/25/08 and 12/4/08.

² See MPC §1121(b)(v).

³ See MPC §1121(e).

1 "Full-Time Driver" is "defined to mean any driver actually
2 engaged in the mechanical operation and having physical charge
3 or custody of a motor vehicle for hire which is available for
4 hire or actually hired (i) for at least four hours during any
5 24-hour period on at least 75 percent of the business days
6 during the calendar year or (ii) for at least 800 hours during
7 the calendar year."⁴ The Commission has established, by
8 resolution, that part (i) can be satisfied by working 156
9 shifts.
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12 Mr. Narewatt submitted waybills for 2005, 2006, 2007 and
13 for 29 days in 2008. The date range for the 2008 waybills is
14 from 6/22 through 9/7. Given the partial submittal for 2008,
15 Mr. Narewatt may only qualify for a medallion if he complies
16 with the full-time driving requirement for 2005, 2006 and 2007.
17 Commission Staff believes there is evidence which establishes
18 that Mr. Narewatt fabricated many of his 2006 and 2007 waybills.
19 Consequently, Staff did not find it necessary to review the 2005
20 waybills. The hearing officer reviewed the waybills for 2006
21 and 2007.
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28 ⁴ See MPC §1076(o).

1 A. Waybill Discrepancies

2 MPC §1081(d) provides that an application for a permit can
3 be denied on the basis that the applicant has engaged in fraud,
4 deceit, misrepresentation, or other misconduct in connection
5 with the application process. Commission Staff believes that
6 Mr. Narewatt fabricated his 2006, 2007, and 2008⁵ waybills in
7 order to meet the full-time driving requirement. The Staff came
8 to this conclusion after it compared Mr. Narewatt's waybills
9 with two different sets of airport records which monitor when a
10 taxicab is at the airport: (1) the SFO Ground Transportation
11 Unit ("GTU") records, and (2) the "Smart Card" records. See
12 Exhibit B, Declarations of Commission Staff Vicky Siu and Scott
13 Leon.

14 The Commission also received two anonymous letters, dated
15 6/23/08 and 8/12/08, which state that Mr. Narewatt has
16 not driven a cab for three years and is committing fraud.⁶ See
17 Exhibit C, Anonymous Letters.

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24 ⁵ The Commission asserts in its Qualification Hearing Statement that the first
25 half of Mr. Narewatt's calendar year 2008 waybills were fabricated. The
26 Commission also states, however, that it does not have possession of the
27 waybills because they were retained by Mr. Narewatt. Without the waybills,
28 the Commission cannot establish fraud with respect to the waybills for the
first half of 2008.

⁶ The letters appear to be written by the same person. The letter dated
8/12/08 indicates that the person who wrote the letter is a taxi driver who
is also waiting for a medallion.

1 B. 2006 Waybills

2 The Hearing Officer compared Mr. Narawatt's 2006 waybills
3 with the GTU Records. See Exhibit D, Comparison of 2006 Waybills
4 to the GTU Records and the 2006 Waybills.
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6 The Ground Transportation Unit tracks taxicabs which enter
7 and exit the airport. Tracking is done by means of a transponder
8 which is attached to the cab and which is read by an electronic
9 reader. In 2006, Mr. Narewatt drove Cab #243 for all of his
10 shifts. Attached to Cab #243 is electronic transponder #810393.
11 See Exhibit E, Declaration of Daniel Borg, Chief Mechanic for
12 Landslide Operations, the company that inspects permitted
13 vehicles and installs transponders for the GTU and the GTU
14 records for Transponder #810393.
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17 Many of Mr. Narewatt's waybills state that he picked up
18 fares from SFO but the GTU records for transponder #810393 do
19 not indicate that the vehicle was at the airport during those
20 reported shift times.⁷

21 1. March through September 2006

22 There is no record of Cab #243 being at SFO from March
23 through September 2006. However, Mr. Narewatt's waybills for
24 this timeframe indicate that he was at the airport on 76 days
25 and picked up approximately 234 fares. Daniel Borg stated that
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⁷ The GTU records for January 2006 were not submitted to the hearing officer.

1 it was his belief that Cab #243 was not at the airport between
2 March and September 2006. See Exhibit E, Declaration of Dan
3 Borg, paragraph 5.
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5 Duplicate waybills were also submitted for 9/29/06: One
6 waybill states the shift was from 19:30 until 04:00 of the next
7 day with eleven fares, and the other waybill states the shift
8 was from 20:00 until 24:00 with six fares.

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10 2. February, October, November and December 2006

11 Twenty-eight out of the forty-six waybills (61%) submitted
12 for February, October, November and December are inconsistent
13 with the GTU Records. More specifically, the waybills indicate
14 that fares were picked up at the airport, but the GTU Log has no
15 record of Cab #243 being at the airport. Some examples: The
16 waybills for 2/10, 10/14 and 11/3 all indicate that five fares
17 were picked up from the airport and there is no corresponding
18 record in the GTU log. The waybills for 2/1, 2/22, 2/15, 2/17,
19 2/23, 2/25, 2/28, 10/07, 11/24, and 12/16 all indicate that
20 three fares were picked up from the airport without any
21 corresponding GTU records.
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24 It is Mr. Narewatt's position that the records are in error
25 and that he drove all of those shifts.

26 Given the volume of the evidence showing discrepancies and
27 the Declaration by Daniel Borg, the hearing officer does not
28 find Mr. Narewatt credible.

1 Findings:

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- 3 • Mr. Narewatt has not established, by a preponderance of the
4 evidence, that he complied with the full-time driving
5 requirement for 2006.
 - 6 • The Commission has established, by a preponderance of the
7 evidence, that Mr. Narewatt fabricated, at a minimum, 100
8 waybills for 2006. The 100 waybills are those that list
9 fares from SFO and for which there is no corresponding
10 record in the GTU log that Cab #243 was at the airport
11 during the reported shift time.
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13 C. 2007 Waybills

14 The 2007 waybills indicate that Mr. Narewatt drove Cab #243
15 for all of his shifts except possibly two.⁸ The Hearing Officer
16 reviewed the 2007 waybills and compared them against both the
17 GTU and Smart Card records. See Exhibit F, Hearing Officer
18 Comparison of 2007 Waybills to the GTU and Smart Card Records.
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20 1. January through May 2007

21 Given that the Smart Card System had not yet been
22 implemented, the hearing officer compared the January through
23 May 2007 waybills with the GTU Records. There were many waybills
24 which listed SFO fares, however, there was no record of Cab #243
25 being at SFO during Mr. Narewatt's reported shift time: 1/6,
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28 ⁸ The waybills for 8/19 and 12/19 do not list a Cab number.

1 1/7, 1/12, 1/21, 1/22, 1/27, 2/4, 2/5, 3/2, 3/16, 3/23, 3/25,
2 3/27, 3/31, 4/6, 4/7, 4/13, 4/14, 4/27, 4/28, 5/11, 5/12, 5/13,
3 5/18, and 5/25.

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5 2. June through December 2007

6 The hearing officer compared the June through December
7 waybills to both the GTU and Smart Card Records. The Smart Card
8 system was implemented by DAJA International ("DAJA") in June
9 2007. DAJA is a company that has an agreement with SFO to
10 provide curbside management of shuttle vans, taxicabs and
11 limousines. DAJA requires taxi drivers to enter the airport
12 garage before they are dispatched to pick up passengers. The
13 cost of entering and exiting the garage is deducted from the
14 Smart Card which acts like a debit card. Each Smart Card has an
15 electronic account associated with it which tracks when the
16 holder of the Smart Card enters and exits the garage. Mr.
17 Narewatt is the holder of Smart Card # 27002635. See Exhibit G,
18 Declaration of Emma Perez, Operations Manager for DAJA
19 International and Smart Card records for # 27002635.
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23 On at least eight days, Mr. Narewatt submitted waybills
24 indicating that he picked up fares from the airport but there is
25 no record in either the GTU or Smart Card Logs that Cab #243 was
26 at the airport or that Mr. Narewatt's Smart Card was used. See
27 Exhibit F, Waybills for 6/1, 6/2, 6/9, 6/13, 8/31, 9/6, 9/13,
28 10/16.

1 In other instances, the waybills were consistent with the
2 Smart Card Records, however, the GTU Records do not indicate
3 that Cab #243 was at the airport during the reported shift time:
4 7/14, 7/15, 7/27, 7/28, 8/26, 9/21, 9/22, 9/23, 9/30, 10/06,
5 10/07, 10/14, 10/17, 10/21, 10/27, 10/28, 11/02, 11/04, 11/11,
6 11/16, 11/17, 11/18, 11/24, 11/30, 12/1, 12/2, 12/7, 12/8, 12/9,
7 12/16, 12/29.

9 Mr. Narewatt submitted several waybills which did not list
10 any fares to or from SFO, however, the airport records indicated
11 that Cab #243 was at the airport and/or Mr. Narewatt's Smart
12 Card was used during the reported shift time: (1) 8/25 and
13 10/13: No SFO fares on the waybills, Cab #243 not in the GTU
14 log, Smart Card used twice on 8/25 and three times on 10/13
15 during the reported shift time; (2) 10/24: No SFO fares listed
16 on waybill, GTU Records shows that cab #243 was at airport twice
17 during the reported shift time; Smart Card Records show that
18 Card was used at least 4 times (to enter and exit) during the
19 reported shift time), (3) 11/5: No SFO fares listed on waybill,
20 GTU records shows #243 at SFO two times during reported shift
21 time and Smart Card was not used.

25 Mr. Narewatt did not submit waybills for the following
26 dates, however, his Smart Card was used at SFO on those days:
27 6/27, 7/21, 9/14 or 9/15. The foregoing suggests that another
28 individual may have been using Mr. Narewatt's Smart Card.

1 There were other numerous inconsistencies, some examples:
2 (1) the waybill for 6/10 lists 6 fares taken from SFO. The GTU
3 records show that the cab was only at the airport once (during
4 Mr. Narewatt's reported shift time and Mr. Narewatt's Smart Card
5 was not used at all on that day. (2) The waybill for 6/16 lists
6 5 fares from SFO, the GTU shows the vehicle being there only
7 three times and there is no record of Mr. Narewatt's Smart Card
8 being used.
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10 The foregoing inconsistencies suggest that Mr. Narawett
11 fabricated many of his 2007 waybills.
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13 **Findings:**

- 14 • Mr. Narewatt has not established, by a preponderance of the
15 evidence, that he fulfilled the Full-Time Driving
16 Requirement for 2007.
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- 18 • The Commission has established, by a preponderance of the
19 evidence, that Mr. Narewatt fabricated, at a minimum, 33
20 waybills. Twenty-five of the 33 waybills are from January
21 through May 2007 and refer to those waybills that list
22 fares from SFO and for which there is no corresponding
23 record in the GTU log which indicates that Cab #243 was at
24 the airport during the reported shift time. The remaining
25 eight of the 33 waybills are those which list fares from
26 SFO and for which there is no corresponding record in
27 either the GTU or the Smart Card logs that Cab #243 was at
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1 the airport or that Mr. Narewatt's Smart Card was used
2 during the reported shift time.
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6 III. Recommendation

7 Given (1) the failure by Mr. Narawett to fulfill the full-time
8 driving requirement for 2006, 2007 and 2008 and, (2) the
9 fabrication of many waybills, the hearing officer recommends
10 that Mr. Narewatt's application for a medallion (P-16 permit) be
11 denied.
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16 Julie Rosenberg
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18 Julie Rosenberg, Esq.

19 Hearing Officer
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12/23/08

Date

December 23, 2008

Exhibits are provided separately from this packet for public viewing.