

File

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NUMBER 0610-C-59-L
(Complaint Number LV06-1306-65)

RE: IN THE MATTER OF THE CITATION OF ADVANCE LUXURY
LIMOUSINE, LLC.

Final Decision

December 18, 2007

I. INTRODUCTION

A. General

By citation dated July 25, 2007, by the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes Section 13b-103, as amended, Advance Luxury Limousine, LLC (hereinafter "respondent"), holder of Livery Permit Number 2797, was ordered to come before the department to answer the allegations made therein.

Pursuant to said citation, the respondent was directed to appear at the Newington office of the Department of Transportation to show cause why Livery Permit Number 2797, issued for the operation of livery service, should not be suspended or revoked or a civil penalty imposed for violation of its certificate issued pursuant to Connecticut General Statutes Section 13b-103, et seq.

More specifically, it is alleged that on or about May 23, 2006, a driver for Advance Luxury Limousine, LLC operated a motor vehicle bearing Connecticut marker plate number L6951L in intrastate livery service and exceeded the registered passenger seating capacity in violation of Connecticut General Statutes Section 14-273(a).

It was also alleged that on or about April 29, 2007, Advance Luxury Express failed to maintain a livery "headquarters" as defined in accordance with the livery permit requirements in violation of Section 16-325-1 of the Regulations of Connecticut State Agencies.

The citation was served upon the respondent by first class and certified mail and recited the department's reasons for issuing it.

B. Hearing Held

Pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, the public hearing for this citation was held on November 27, 2007.

Notice of the citation and the hearing to be held thereon was given to the respondent and to such other parties as required by Connecticut General Statutes Section 13b-103, as amended.

The hearing on this matter was conducted by a hearing officer designated by the Commissioner of Transportation, pursuant to Section 13b-17 of the Connecticut General Statutes.

C. Appearances

Derik Subramani appeared on behalf of the respondent. The respondent was represented by Attorney Michael Ferguson with a mailing address is 232 North Elm Street, Waterbury, Connecticut 06706.

Wayne Sinclair, a member of the department's staff, acted as a presenter in the hearing.

Robert Colucci, Supervising Special Investigator, testified as a witness.

Eugene Morris, Transportation Public Transit Inspector, testified as a witness.

II. FINDINGS OF FACT

1. The respondent is the holder of Livery Permit Number 2797 in the name of Advance Luxury Limousine, LLC and is authorized to operate motor vehicles in livery service from a headquarters in Waterbury.

2. On May 23, 2006, a driver for Advance Luxury Limousine, LLC operated a motor vehicle bearing Connecticut marker plate number L6951L in intrastate livery service and exceeded the registered passenger seating capacity by carrying ten passengers in violation of Connecticut General Statutes Section 14-273(a). The vehicle was registered for seven passengers with the department.

3. On June 13, 2006, a warning letter was sent to the respondent for excessive passengers.
4. In January 2007, the department received a complaint letter indicating that the respondent had moved its headquarters out of Waterbury.
5. The respondent was sent a second warning letter on May 31, 2007 concerning the headquarters violation.
6. The respondent filed a Transfer of Headquarters application in July 2007.

III. DEPARTMENT ANALYSIS AND CONCLUSIONS OF LAW

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in livery service in the State of Connecticut accordance with Connecticut General Statutes Section 13b-103, as amended.

Pursuant to Connecticut General Statutes Section 13b-103, the department may amend or for sufficient cause suspend or revoke any such permit. Further, the department may impose a civil penalty on any person who violates any provision of the governing chapter or any regulation adopted under Section 13b-103, as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one thousand dollars per day for each violation.

The evidence shows that on May 23, 2006, a driver for Advanced Luxury Limousine, LLC operated a motor vehicle bearing Connecticut marker plate number L6951L in intrastate livery service and exceeded the registered seating capacity in violation of Connecticut General Statutes Section 14-273(a). The vehicle was registered for seven passengers but carried ten. The respondent concedes that this trip did occur with excessive passengers and that the driver was fired after the trip. Since the respondent is responsible for the actions of those who work for them, the respondent must be assessed a civil penalty for the violation.

With regard to the headquarters violation, the respondent admits that it moved its operation from Waterbury to Watertown in 2005. It claims to have filed numerous applications for the transfer starting in 2005 which the Department has not processed. The respondent only provided proof that it filed a transfer of headquarters application in July 2007. It is the respondent's responsibility to get the transfer of headquarters completed so that it will not be continually in violation of the regulations. The respondent has failed to follow up on the applications.

A review of the evidence shows that the Department received a written complaint in January 2007, from a former business partner of Mr. Subramani, regarding a change in the location of the headquarters. The investigation unit logged in the complaint letter on May 1, 2007 and then sent a warning letter to the respondent on May 31, 2007 concerning the failure to have a proper headquarters.

Connecticut General Statutes Section 13b-103 states that when a livery company is under investigation a warning letter must be sent within fifteen business days from the day that there is the disclosure of the alleged violation. The warning letter dated May 31, 2007 was sent well beyond fifteen business days after the Department received notice in January 2007 of the potential violation. Since the headquarters violation is totally unrelated to the overcrowding violation in 2006, a new warning letter should have been timely sent to apprise the respondent of the second investigation. Since the department failed to notify the respondent properly about the second investigation, the charge for the headquarters violation will be dismissed.

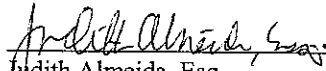
IV. ORDER

Based on the above, the respondent is ordered to pay to the Department of Transportation a civil penalty in the amount of **TWO HUNDRED FIFTY DOLLARS (\$250)**, by certified check, bank check or money order made payable to the "Treasurer, State of Connecticut," within thirty days from the date of this final decision.

Failure of the respondent to comply with this order shall result in revocation without further proceeding. This final decision constitutes notice in accordance with Connecticut General Statutes Section 4-182(c).

Dated at Newington, Connecticut on this the 18th day of December 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida, Esq.

Staff Attorney III

Administrative Law Unit

Bureau of Finance and Administration