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Administrator

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STACIE TRUESDELL MICHAELS, ESQ.
Chairman

SUSAN CARRASCO O'BRIEN, ESQ.
Vice chairman

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
TAXICAB AUTHORITY

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Members
ROBERT FORBUSS
JOHN G. MARUSHOK
JOSHUA C. MILLER

**BEFORE THE STATE OF NEVADA TAXICAB AUTHORITY
BOARD MEETING AND PUBLIC HEARING MINUTES**

August 24, 2010

The Board Meeting and Public Hearing of the State of Nevada Taxicab Authority was held on Tuesday, August 24th, 2010. The meeting was held at the Taxicab Authority, 1785 E. Sahara Avenue, Suite 200, Las Vegas, Nevada 89104. The Driver Appeal was heard at 9:00 A.M. The meeting began at 9:30 A.M.

Present were: Chairman Stacie Truesdell Michaels, Vice Chairman Susan Carrasco O'Brien, Member John G. Marushok and Member Joshua C. Miller. Others present: were Administrator Gordon L. Walker, Legal Counsel, Deputy Attorney General Scott R. Davis and Legal Secretary/ Recording Secretary, Barbara A. Webb. Absent: Member Robert Forbuss. Also in attendance was Blake Doerr as counsel for the Board for the Driver Appeal.

1. Driver Appeal - Rene Vazquez - # 30238

Deputy Attorney General Scott Davis, on behalf of the Taxicab Authority, presented Mr. Vazquez' case to the Board, stating that Mr. Vazquez was issued a citation on September 27, 2009. He was observed by Investigator Teti making a left hand turn from Spring Mountain. The left hand turn was executed from the travel lane instead of from the left hand turn lane while Spring Mountain was under construction with a temporary traffic control set up and there was a specific left hand turn lane set aside as part of that traffic control. At the Hearing, Investigator Adam Teti testified that he had a clear and unobstructed view of Mr. Vazquez executing the turn from the travel lane instead of the turn lane. Judge Winner made the determination that Officer Teti's testimony was credible. Based upon that, issued a finding of guilty. This was Mr. Vazquez' third offense under the penalty phase of 8848, maximum penalty under that phase is 6 days suspension and a \$300 fine. Mr. Vazquez was given no suspension and was fined \$190. Mr. Davis said he understands there was some dispute about the accuracy of the transcript and that is the basis for this appeal, however, whether the numbers are right in the transcript is not relevant because Judge Winner's finding was based on the credibility of the Officer Teti. On that basis, he asked the Board to affirm the Judge's decision.

Member Miller asked the DAG if they had any leeway on the fine to decrease or increase it. Mr. Doerr stated that the Board did have the leeway to change the fine.

Rene Vazquez stated his case. He explained that with the construction of Spring Mountain that you can take Mel Torme Drive up on the left hand side to make the turn or go around the construction zone to make a left which is what he did. He said he entered the correct lane before he turned which was about 120 feet before the light.

After much discussion, the Chair explained to him that all they have to make their decision is the transcript and what the Judge had to say that there is no other proof of anything else. The Chair asked if he had any other proof that he is right and he said no and stated that neither does the Board and the Chair said yes they do. Member Miller commented that the Judge said the officer's statement was credible. The Chair asked if he brought a witness and he said no.

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Motion: Affirm the Hearing Officer's decision
By: Chair Michaels
Second: Member Miller
Vote: Motion to affirm passed 3 to 1
Vice Chair O'Brien opposed

3. Compliance with Open Meeting Law.

Administrator Walker stated that we are in compliance with the Open Meeting Law.

***4. Approval of the Minutes from the June 29, 2010 Board Meeting.**

Motion: To approve June 29, 2010 Minutes
By: Member Marushok
Second: Chair Michaels
Vote: 3:1 in favor of the motion – Vice Chair abstained as she did not attend that meeting

***5. Discussion and Possible Decision regarding the application of Dale Warby to act as the independent trustee of both the DJW 2010 YCS Retained Annuity Trust and the LJW 2010 YCS Retained Annuity Trust; application of Michael Kim Willden to potentially act as a successor trustee of both the DJW 2010 YCS Retained Annuity Trust and the LJW 2010 YCS Retained Annuity Trust; and application of Lolita Jean Willden to act as the family trustee of the DJW 2010 YCS Retained Annuity Trust.**

Nate Nelson, Esq., represents the applicants as identified above and made his presentation by giving some background of the individuals involved in this application. Administrator Walker told the Board that staff recommends approval of this transfer.

Motion: Approval of the applications of Dale Warby, Michael Kim Willden and Lolita Jean Willden
By: Member Miller
Second: Vice Chair O'Brien
Vote: Unanimously in favor of the motion to approve the applications

6. Public Comment

Greg Bambic spoke regarding a fundraiser that the Professional Drivers Association is having to help drivers who have been hurt by a criminal act while working. It will be at Tommy Rockers on September 21, 2010 and hopes every can attend or at least buy raffle tickets.

Steve Lanett, driver for Whittlesea Blue, gave a handout to the Board regarding an article about long hauling that had been published in a magazine.

Ruthie Jones, ITPE Union read a letter that she has put in the Trip Sheet Magazine about a Henderson driver who had a passenger going to the airport, an older woman, who when she went to pay him found out she did not have her wallet with her. He told her not to worry about the fare and then gave her \$20 so she would have some money and told her to have a nice flight home. Some time after, his supervisor got a call from the TA, telling him that they needed the driver back at the airport right away. The supervisor contacted the driver, upon his arrival at the airport, the TA was waiting for him with a man named Judge Bennett, the elderly woman whom the driver had helped was the Judge Bennett's

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Mother. The Judge gave the driver \$500 for his act of kindness, thanked him and told him he was an outstanding driver.

7. Discussion with Stephen Patterson, Traffic Manager for LVCVA regarding the taxicab service during the past 3 months.

Earl Easterly, LVCVA thanked everyone including the companies for the great service during M.A.G.I.C. He gave special thanks Bill Murray of Frias for all his help. He stated that registration was up 25% and there were more attendees than normal. Their next show is the baking show and expected attendance is 35,000. For the next few weeks he said that there are no shows.

8. Discussion with Jeff Zamaria from the Sands Expo regarding taxicab service.

Mr. Zamaria also thanked the companies for their exceptional service during M.A.G.I.C. as part of M.A.G.I.C. is at the Sands. He stated that they are also flat for the next couple of weeks.

9. Discussion with Heidi Nizowitz from the Mandalay Bay Convention Center regarding taxicab service.

She did not attend.

***10. Discussion and Possible Decision regarding complaint filed by Neil J. Beller, Esq., on behalf Déjà vu Showgirls of Las Vegas, LLC, and Little Darlings of Las Vegas, LLC.**

Chair Michaels stated that she will abstain from any discussion and voting on this agenda item as she has represented one of the owners in the past.

Deputy Attorney General Scott Davis represented staff and made his presentation. He explained that in October, 2008, the TA received a written complaint from Neil Beller, Esq., on behalf of Deja Vu and Little Darlings. The complaint is a dual complaint of diversion – one against the drivers and one against certificate holders. He explained that the regulations and procedures for handling complaints against the drivers are different from the regulations and procedures against certificate holders. Today we are dealing with the complaint against the certificate holders. Mr. Davis said today a determination has to be made whether there is probable cause to go forward to an administrative hearing before Judge Winner against the certificate holders.

The Vice Chair asked if the Board has any questions.

Member Miller asked based on their finding today is there the ability to further appeal our decision. The DAG answered that if determination is made that there is probable cause, then the hearing process will go forward, if the Board finds no probable cause, then the complaint must be dismissed and that would be a final determination subject to the normal appeal process to the Nevada Transportation Authority, District and Supreme Courts.

Atty. Beller who represents Deja Vu Showgirls and Little Darlings, made his presentation. He spoke about the Complaints that he had filed on their behalf against the Certificate Holders and the taxicab drivers for diversion. He stated that this Complaint was filed over a year ago. An investigation of both the Certificate Holders and many drivers was done by Taxicab Authority Senior Investigator Henefforth. Atty. Beller was advised that the Certificate Holders have policies and procedures against diversion and it is emphatically taught to the drivers by the companies as well as the Taxicab Authority during their Driver Awareness Class.

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The Board listened to the intervenors – Lucky Cab, Frias Holding Company, A Cab, Yellow/Checker/Star Cab Companies, ITPE Union – comments as to what their procedure is for diversion and how it is handled.

The Administrator commented that on the drivers' side of this equation, the companies when they responded to the original complaint in those cases where they felt there was diversion they took action. The Taxicab Authority also looked at all of those complaints. There is action pending because we're working two other law enforcement agencies, but the drivers' side of this equation is ongoing and a report will be generated when the investigation is done.

After Mr. Beller's presentation, Vice Chair O'Brien stated that there must be probable cause before the Board can make a decision whether to accept or deny this complaint and there is no probable cause, therefore, the Vice Chair asked for a motion -

At the request of Mr. Beller, for the record, he asked to either grant or deny the intervenors motion to intervene, the Vice Chair granted motion to intervene to Lucky Cab Company, Frias Holding Company, A Cab, Yellow/Checker/Star and ITPE Union.

Motion: Vice Chair O'Brien - with no probable cause shown by the movant as well as relying on the information provided by the respondents, as well as the report by the Administrator, I would move to dismiss the complaint as brought before to the Taxicab Authority

Member Miller – Seconded the Motion

Vote: 3 in favor of the motion, Chair Michaels abstained

A verbatim transcript is available for this agenda item at the Taxicab Authority Office, 1785 E. Sahara, #200. Contact Barbara A. Webb at 702-668-4025 if you wish to have a copy. There is a copy fee of \$.25 per page.

11. Staff Report

Kelly Kuzik made his presentation. July 2010 trips were up 8.61% over July 2009; year-to-date is up 7.50% for trips over 2009 and this is the 10th month in a row that we've had an increase in trips month over month. Trips per shift are almost up to 20.

The Administrator commented that for future reference, the long haul workshop will continue in the later part of September or early October.

12. Report of Legal Counsel

DAG Scott Davis stated that the only pending legal matter is the Handicab application. Within the past couple of days there was a motion filed to determine the status of the cab companies as whether or not they can participate in the petition for judicial review. The briefs have not been filed yet. There is currently a hearing scheduled on that motion for September 27 in the 8th Judicial District Court.

13. Adjournment.

Motion: To adjourn

By: Chair Michaels

Second: Vice Chair O'Brien

Vote: Unanimously in favor of the motion

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Meeting was adjourned at 11:51:03 A.M.

Respectfully submitted by:

Barbara A. Webb, Recording Secretary Date

Approved by:

Stacie Truesdell Michaels, Chairman Date

Gordon L. Walker, Administrator Date