

Disposition of the Independent Review Panel



Complainant: Cabbies Association, Inc.

IRP Case: A 2007.091

Date: October 18, 2007

The Independent Review Panel met on October 18, 2007 for the purpose of publicly reviewing the complaint made by Cabbies Association, Inc. against the Consumer Services Department (CSD) and the department's response to that complaint. The following represents the findings of the Panel:

A. Recommendations

1. That CSD develop a standard set of Chauffeur Form Agreements with passenger services companies and license holders, and an itemized receipt form.
2. That CSD develop a standardized data collection procedure to maintain information entered in all Chauffeur Form Agreements.
3. That CSD require that license holders and passenger service companies provide copies of agreements to the chauffeur who signs the agreements.
4. That CSD develop a Chauffeur Bill of Rights.
5. That taxi drivers ask CSD for a copy of insurance documentation for the vehicle he/she drives, and that they carry that documentation with them when driving the vehicle specified in the documents.

B. Allegations

The Cabbies Association, Inc. alleges that the Consumer Services Department (CSD) refuses to enforce sections of Chapter 31 (Vehicles for Hire) of the Miami-Dade County Code:

1. CSD refuses to enforce Chapter 31-100(j) of the Miami-Dade County Code which requires each passenger service company to enter into a written agreement with each chauffeur it allows to operate any for-hire vehicle.
2. CSD refuses to enforce Chapter 31-82(j)(13) which requires each for-hire license holder to enter into a written agreement with each chauffeur it allows to operate any for-hire vehicle.
3. CSD refuses to enforce its policy prohibiting passenger service companies from leasing to a third party who is not going to drive a vehicle operated under that license and who is merely going to sub-lease it out to a driver.
4. CSD refuses to enforce Chapter 31-82(j)(13)(d) which requires that chauffeurs "be provided with a written receipt which contains the name of the license holder or passenger service company, whichever is applicable, and the name of the driver, the for-hire license number, payment amount and form of payment utilized, date of payment and the period covered by the payment."

C. Disposition of the Independent Review Panel

The Panel found the allegations that the Consumer Services Department (CSD) refuses to enforce sections of Chapter 31 of the Miami Dade County Code to be *UNFOUNDED*. CSD provided evidence that it enforces by:

1. Requiring that each license holder, at the time of annual renewal, submit a copy of current agreements with both drivers and passenger service companies.
2. Requiring that each for-hire license holder certify under oath, that there is an agreement with each chauffeur that is allowed to drive a for-hire vehicle and with the passenger service company under which the for-hire license is operated.
3. Requiring that the passenger services companies maintain copies of the agreements.
4. Conducting random audits of passenger service companies.
5. Verifying that chauffeur agreements are in place whenever a complaint is received.
6. Issuing citations for violations.

D. Other Findings

1. CSD does keep records of vehicle insurance and those documents are public record.
2. Consumer Services Department (CSD) enforcement cannot realistically eliminate all violations; violations do exist. CSD acknowledged that sub-leasing could exist; some chauffeurs could be driving without agreements, incomplete agreements or inaccurate agreements; and there could be instances where receipts are not provided or receipts are inaccurate.
3. CSD is not required to keep copies of written agreements. Copies of the written agreements are stored with the passenger services companies and therefore are not public record.

The Independent Review Panel concluded the complaint on October 18, 2005.

Independent Review Panel

Committee Recommendation to the Panel

October 18, 2007

Complaint: A 2007.091

Complainant: Cabbies Association, Inc.

Accused Party: Consumer Services Department (CSD), Passenger Transportation Regulatory Division (PTRD)

Date Complaint Received: April 17, 2007

Materials Reviewed: Correspondence, Department response, staff notes, committee notes, Dade County Code Chapter 31 "Vehicles for Hire"

Committee: Jorge Reynardus, Esq., Panel Member; Dr. Eduardo Diaz, Executive Director; Carol Boersma, Executive Assistant; Kristin Anderson, Conflict Resolution Specialist

Meeting Date: June 21, 2007

Present from the Cabbies Association: Fernando Villacis, Jorge Cortes, Raymond Francois, Carlos Garcia

Present from the Consumer Services Department: Cathy Peel, Director; Joe Mora, Passenger Transportation Regulatory Division Director; Julissa Hernandez, Esq.

Definition of Terms:

Chauffeur - a duly licensed driver registered with, and authorized by, the Consumer Services Department to operate a for-hire passenger motor vehicle (taxi).

Chauffeur registration - a registration card (hack license) issued by the CSD, which carries the registration number assigned to the chauffeur, the chauffeur's picture, the companies he is authorized to drive for.

Chauffeur agreements - the CSD approved form agreements entered into by the chauffeur and the passenger service company, and the chauffeur and the for-hire license holder prior to the provision of any for-hire service. The term "sponsor" is used for the passenger service company that signs an agreement with a chauffeur.

For-hire license - an annual, renewable license which authorizes the provision of for-hire transportation services (medallion). There is one license/medallion per for-hire vehicle.

Medallion - a plate or decal issued by CSD as the physical evidence of a taxicab license which is affixed to the outside or inside of such taxicab.

Passenger service company - a Florida corporation or partnership created for the purpose of providing passenger services for for-hire taxi operations and providing various services to for-hire license holder(s) and chauffeurs with whom the passenger service company has entered into passenger service agreements.

Complaint: The Cabbies Association, Inc. alleges that the Consumer Services Department (CSD) refuses to enforce sections of Chapter 31 (Vehicles for Hire) of the Miami-Dade County Code:

1. CSD refuses to enforce Chapter 31-100(j) of the Miami-Dade County Code which requires each passenger service company to enter into a written agreement with each chauffeur it allows to operate any for-hire vehicle.
2. CSD refuses to enforce Chapter 31-82(j)(13) which requires each for-hire license holder to enter into a written agreement with each chauffeur it allows to operate any for-hire vehicle.
3. CSD refuses to enforce its policy prohibiting passenger service companies from leasing to a third party who is not going to drive a vehicle operated under that license and who is merely going to sub-lease it out to a driver.
4. CSD refuses to enforce Chapter 31-82(j)(13)(d) which requires that chauffeurs "be provided with a written receipt which contains the name of the license holder or passenger service company, whichever is applicable, and the name of the driver, the for-hire license number, payment amount and form of payment utilized, date of payment and the period covered by the payment."

Department Response: CSD Director Cathy Grimes Peel responded in a memo dated June 1, 2007.

Allegations 1 and 2

UNFOUNDED The Consumer Services Department strictly enforces both the chauffeur agreement and the passenger services company agreement that are required in the Code.

CSD enforces this section of the ordinance by:

1. Requiring that each license holder, at the time of annual renewal, submit a copy of current agreements with both drivers and passenger service companies. CSD verifies that agreements are in place but does not keep the agreements or record prices. A copy of each agreement must be on file at the Passenger Service Company.
2. Requiring that each for-hire license holder certify under oath that there is an agreement with each chauffeur that is allowed to drive a for-hire vehicle and the passenger service company under which the for-hire license is operated.
3. Requiring that the passenger services companies maintain copies of the agreements.
4. Conducting random audits of passenger service companies.

5. Verifying that chauffeur agreements are in place whenever a complaint is received.
6. Issuing citations for violations.

Allegation 3

UNFOUNDED It is the position of CSD that sub-leasing is not permitted, however there are cases where individuals have Power of Attorney for the for-hire license holder and these individuals can legally execute the lease agreements on behalf of the license holder.

Allegation 4

UNFOUNDED CSD performs periodic audits to ensure compliance. CSD has also submitted to the BCC an amendment which would require that a summary of the chauffeur agreement requirements be posted at the taxicab company in a conspicuous location near the point of payment.

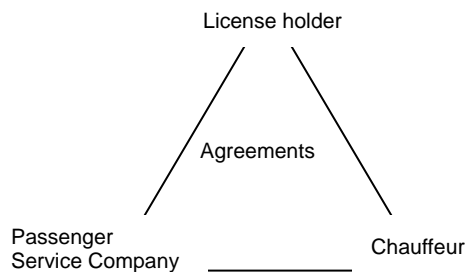
Committee Remarks: Cathy Peel explained that the Consumer Services Department (CSD) regulates the for-hire industry, including chauffeur registrations (4200), passenger service companies (40) and license/medallion holders (2080). About 600 medallions are owned by taxi drivers themselves; the rest are owned by “other people.” The number of medallions available is limited by code. Prior to 1998, there was no limit to the number of licenses an individual could own. Since 1998 the limit has been two per cab driver. The entity holding the most licenses (100-110) is the association operated by the Super Yellow Cab Company.

The free market cost of a medallion is about \$200,000. In the past CSD has made medallions available to qualified taxi drivers through lotteries. The winner of a medallion must pay CSD between \$5,000 and \$25,000, depending on the area of service. A county-wide medallion costs \$25,000; a medallion which serves an “under-serviced” area costs \$15,000. There is a \$10,000 discount if the vehicle is wheelchair accessible.

The following are concerns expressed by Cabbies during the meeting:

Written agreements

The code requires three annual written agreements:
License holder - passenger service company
License holder – chauffeur
Passenger service company – chauffeur



Cabbies concerns: Many chauffeurs are working without written agreements and written agreements are stored with the companies, not with CSD. This allows companies to manipulate records to avoid liability in accidents. It also means that the agreements are not public records.

Chauffeur Jorge Cortes stated he drives a Yellow Cab and there is no written agreement between him and the company. If there is an accident, he's just a "number that disappears." Mr. Mora responded that his Chauffeur Registration identifies him as an authorized Yellow Cab driver.

Chauffeur Raymond Francois cited problems he has with the company that sponsors him, Miami Dade Taxi:

1. He does not have a current contract with the company.
2. The company forged his signature on the 2006 contract.
3. There are two other names on the contract for the number he drives under (507).
4. The contract states he pays \$325 a week to the company, when in reality he pays \$395.
5. The company does not provide a proper receipt.

Written receipts

The code requires that passenger service companies give chauffeurs written receipts which contain the name of the driver, the for-hire license number, payment amount, form of payment utilized, date of payment and the period covered by the payment.

Cabbies concerns: Many chauffeurs do not receive written receipts, or receive receipts that do not reflect what they actually pay.

Sub-leasing

Cabbies concern: The high cost of licenses gives opportunity for drivers to be used as "fronts" for unscrupulous license buyers.

Mr. Cortes stated that taxi drivers do not have the money to pay, even if they win a license in the lottery, and someone should look into who supplies the money. The taxi driver may be the legal owner, but he may also be a "figurehead" for the person who provided the money.

Ms. Peel responded that licenses are intangible property which can be financed. All financing agreements are recorded with CSD.

Insurance

When driving, chauffeurs are required to have their Drivers License with them and have their Chauffeur Registration posted in the vehicle. They are not required to carry vehicle registration or proof of insurance. Mr. Villacis stated that police officers ticket chauffeurs when they are stopped and cannot produce proof of insurance.

Ms. Peel stated that the vehicles are covered under umbrella policies of the companies, and CSD keeps records of those policies. In a meeting with IRP staff on August 8th, Mr. Mora stated there is a policy for each vehicle and CSD will provide drivers copy of the policy for the vehicle he/she drives on request.

Mr. Cortes stated that drivers sponsored by Yellow Cab must call the company when they are involved in an accident. They are not allowed to call the police. The company evaluates the accident and, if the taxi driver is at fault, confiscates the hack license and sends it to CSD with the request that Yellow Cab be removed as the driver's sponsor. In order to get back in the company, the driver must make a deal with the company's lawyer.

Mr. Villacis stated that even though drivers pay as much as \$5000 for insurance, the insurance only covers the passengers.

Undocumented costs

Passenger service companies have many hidden or undocumented fees. Mr. Francois stated chauffeurs have to pay up to \$2000 to the company before the company will sign the sponsorship application, and chauffeurs do not get receipts for those charges. He paid \$5 to Miami Dade Taxi; Flamingo charges \$1500 and Yellow Cab charges \$2000, if there is an accident record.

Mr. Mora responded that companies can charge for costs incurred, such as background checks, credit checks, driving record checks, etc. Companies can also charge deposits to cover tickets.

Ms. Peel stated that Mr. Francois recently brought four complaints to CSD alleging that drivers were being required to pay large sums of money as a "driving deposit." Two complaints could not be substantiated because there were no records. The other two complaints were substantiated and Yellow Cab was cited, not for requiring a "driving deposit," but for failing to document it in the chauffeur agreement. Yellow Cab considered the drivers "high risk" and did have receipts for the "driving deposit." CSD attorney Julissa Hernandez stated there is nothing in the code to prohibit such a deposit.

Mr. Francois stated that companies also force drivers to pay for inspections, which is a code violation.

Staff Notes: Staff met with Cathy Peel, CSD Director and Joe Mora, Passenger Transportation Regulatory Division Director on August 8, 2007. Mr. Mora advised that he is investigating the allegations made by Raymond Francois at the committee meeting. Ms. Peel also advised that legislation, which will require all taxi companies to post a summary of the chauffeur agreement requirements at the taxicab company in a conspicuous location near the point of payment, is pending a September 4th BCC vote.

Committee Findings:

A. Regarding the allegations

The committee found the allegations that the Consumer Services Department (CSD) refuses to enforce sections of Chapter 31 of the Miami Dade County Code to be *UNFOUNDED*. CSD provided evidence that it enforces by:

- a. Requiring that each license holder, at the time of annual renewal, submit a copy of current agreements with both drivers and passenger service companies.
- b. Requiring that each for-hire license holder certify under oath, that there is an agreement with each chauffeur that is allowed to drive a for-hire vehicle and with the passenger service company under which the for-hire license is operated.
- c. Requiring that the passenger services companies maintain copies of the agreements.
- d. Conducting random audits of passenger service companies.
- e. Verifying that chauffeur agreements are in place whenever a complaint is received.
- f. Issuing citations for violations.

B. Other Findings:

1. Consumer Services Department (CSD) enforcement cannot realistically eliminate all violations; violations do exist. CSD acknowledged that sub-leasing could exist; some chauffeurs could be driving without agreements, incomplete agreements or inaccurate agreements; and there could be instances where receipts are not provided or receipts are inaccurate.
2. CSD is not required to keep copies of written agreements. Copies of the written agreements are stored with the passenger services companies and therefore are not public record.
3. CSD does keep records of vehicle insurance and those documents are public record.

Recommendations:

1. That the Panel adopt the committee findings and recommendations.
2. That CSD submit to the BCC an amendment to the code which would require that copies of all agreements be kept at the CSD and be made available under public records laws.
3. That CSD require that license holders and passenger service companies provide copies of agreements to the chauffeur who signs the agreements.
4. That taxi drivers ask CSD for a copy of insurance documentation for the vehicle he/she drives, and that they carry that documentation with them when driving the vehicle specified in the documents.
5. That the Panel conclude the complaint.