

BOARD REPORT
CITY OF LOS ANGELES
DEPARTMENT OF TRANSPORTATION

Date: May 16, 2019
To: Board of Taxicab Commissioners
From: Seleta J. Reynolds, General Manager
Subject: **APPEAL OF L.A. CHECKER CAB COOPERATIVE, INC., CONCERNING THE DEPARTMENT'S RECOMMENDATION TO REVOKE FRANCHISE ORDINANCE 181423**

RECOMMENDATIONS

That your Board:

- a. **FIND** that on June 21, 2018, the Department of Transportation submitted to the Board of Taxicab Commissioners (Board) a recommendation to revoke L.A. Checker Cab Cooperative Inc.'s (Checker) Franchise Ordinance for multiple violations of the Ordinance.
- b. **FIND** that Checker shall pay a monetary penalty of \$335,000.00 for violations of Franchise Ordinance 181423.
- c. **ADVISE** Checker that the monetary penalty shall be paid in full by April 22, 2019.
- d. **DENY** Checker's appeal and uphold the Department's recommendation to revoke Franchise Ordinance 181423.

INITIATED BY

On October 15, 2018, L.A. Checker Cab Cooperative, Inc., 14943 Califa St., Van Nuys, California 91411, appealed the Department's recommendation to revoke Franchise Ordinance 181423 by filing a written "Request for Hearing Before the Board of Taxicab Commissioners" (Attachment 1) pursuant to Board Order No. 471, Rule 906 (Attachment 1).

DISCUSSION

On June 21, 2018, the Department submitted a report to the Board of Taxicab Commissioners recommending the assessment of a monetary penalty. The Department also recommends the revocation of Checker's Franchise Ordinance 181423 (Ordinance) predicated on multiple violations of the Ordinance.

Investigator Dale Horton (Horton) submitted a report, B18-030.dwh on June 21, 2018, stating that permitted taxicabs operated as L.A. Checker Cab under Franchise Ordinance 181423 were running

taximeters equipped with “pulse devices.” Pulse devices allow the drivers to manipulate the mileage traveled by accelerating the distance, which results in overcharges to the public. Operating a taxicab with a meter equipped with such devices is a violation of multiple sections of their Franchise Ordinance as well as a violation of Section 12510(a)(5) of the Business and Professions Code.

Investigative Reporter Joel Grover aired a report on NBC Channel 4 News about taxicabs with rigged taximeters in May of 2006, November of 2007, and on July 17, 2009. Yevgeny Smolyar, the President of Checker, sent Joel Grover a letter after the November 2007 airing indicating that the company had implemented new and stricter disciplinary action against drivers for such behavior.

The June 21, 2018 report charges that the company should have been fully aware of the propensity of meter tampering by its drivers but failed to manage or take charge of the operation of these taxicabs as required by their Ordinance.

The Board instructed the Department to conduct an Administrative Hearing with Checker regarding the alleged violations. The Hearing Officer, after conducting the hearing, formed the opinion that there was insufficient evidence to alter the recommendation of the Department submitted to the Board on June 21, 2018. Checker received the results via a letter dated October 5, 2018 (Attachment 2).

Neil Evens, Checker’s legal representative, in a letter, dated October 11, 2018 (Attachment 3), indicated that wording in the original letter was incorrect. Checker received a corrected letter dated October 12, 2018 via email (Attachment 4).

Checker submitted a “Request For Hearing Before The Board Of Taxicab Commissioners” on October 15, 2018.

Appellant’s Statement

The appellant stated on their “Request For Hearing Before The Board Of Taxicab Commissioners” that “Action specified in 10/5/18 and 10/12/18 letters by Pat Barker to revoke all 269 taxicabs slots held by Checker Cab Coop, Inc. alleged violations Board Order 471 Rules 429 and B & P 12510(a) (5) all disputed. No administrative Hearing was held on 8/23/18. There is no evidence or legal basis to revoke all 269 taxi cab slots as set forth in the letter of Neil Evans sent on 10/11/18 and incorporated by reference here.” [Sic]

PROPOSED DISCIPLINARY ACTIONS

Patricia Barker, Senior staff Investigator, presented the Board with a verbal report of the Administrative Hearings and subsequent investigation. Barker’s opinion was that the Board should adopt the original recommendation to revoke Ordinance 181423 and assess the monetary penalty and forward it to the City Council. The Board has requested that the Department return to the Board with an amended report for the Board’s consideration, giving multiple disciplinary options. Report LE18-030a.pab outlines those options, as follows:

SUGGESTED OPTION #1

L.A. Checker Cab Cooperative, Inc.

1. Find that Checker failed to effect the necessary remedies associated with 14 tampering incidents, even when given ample opportunity to do so. Checker's failure necessitates the assessment of a monetary penalty of \$335,000 absent any monetary penalty assessed to the principals involved in the fraud. Checker must render full payment within 30 calendar days of the Board's decision.
2. Find that Sections 2.3(c) (i) and (iv) of Franchise #181423 necessitates the revocation of L.A. Checker's franchise.
3. Direct the Department to not accept any future application(s) for any form of passenger transportation from L.A. Checker, L.A. Checker Cab Cooperative, Inc., or its principals operating under any other company name for a period of five years.

SUGGESTED OPTION #2

1. Find that Checker failed to effect the necessary remedies associated with 14 tampering incidents, even when given ample opportunity to do so. Checker's failure necessitates the assessment of a monetary penalty of \$335,000 absent any monetary penalty assessed to the principals involved in the fraud. Checker must render full payment within 30 calendar days of the Board's decision.
2. Checker shall be placed on probation for a period of not less than two years where any violation of the Board's rules and regulations, City Ordinances, requirements of their Franchise, if any, or any State, County or City law, regulation, codes or laws shall result in the immediate permanent revocation of Checker's authority to operate any form of passenger service within the City of Los Angeles.
3. Checker, whether under the Checker Franchise, company name, or any other means shall, no later than July 1, 2019, enable all licensed Checker vehicles to communicate with the Department in accordance with the Agency APIs defined in the LADOT Mobility Data Specification ("MDS").¹ Compliance with such APIs requires Checker-operated vehicles to notify the Department with temporal and geo-located information before, during, and after every metered trip ("MDS Data").² The Department will compare MDS Data to the licensed meter data reported by Checker to the Department to determine whether Checker is operating in accordance with the requirements set forth in the permit granted to Checker by the Department. At its sole discretion, Department authorized personnel may conduct random audits of Checker without warning.

¹ <https://github.com/CityOfLosAngeles/mobility-data-specification>

² In consideration of this demand, Department will offer technical support to Checker to assist in their compliance with this requirement. The Department technical support will be equivalent to the support Department provided to Mobility Service Providers for the Dockless Mobility one-year permit.

4. Checker Cab shall submit to the Department a complete record of all complaints received; the name of the individual or individuals assigned to the complaint; the resolution, if any, including any penalty assessed; and the date of resolution. The company shall also provide, upon demand by the Department, a copy of all documentation, including any investigative reports.
5. Checker management, investor/shareholders, Grantees, drivers and members shall be required to undergo Customer Service Training from an accredited course approved by the Department and submit certification of each individual's attendance. Said training shall repeat on an annual basis.
6. Checker shall remove the Investor/Shareholder classification from the operation of Checker Cab and require Checker Cab and its management to be solely responsible for the operation of their taxicabs.
7. Checker shall submit to the Department a detailed and concise management business plan, including disciplinary actions for all violations of Los Angeles City rules and regulations. The approved program shall include education of the drivers regarding the rules and regulations of the Department and prevention of fraud to be approved by the Department.
8. Checker shall ensure that all taxicabs operated within the City of Los Angeles shall be registered to Checker.
9. Checker shall at no time, enter into, engage in, encourage, or condone any form of penalizing drivers for monetary penalties assessed to the company by the Department.

SUGGESTED OPTION #3

1. Find that Checker failed to effect the necessary remedies associated with 14 tampering incidents, even when given ample opportunity to do so. Checker's failure necessitates the assessment of a monetary penalty of \$335,000 absent any monetary penalty assessed to the principals involved in the fraud. Checker must render full payment within 30 calendar days of the Board's decision.
2. Checker should install an independent third-party management company as new management for Checker. The Department and the Commission should interview the company, and the Department must approve the company.
3. Checker, whether under the Checker Franchise, company name, or any other means shall, no later than July 1, 2019, enable all licensed Checker vehicles to communicate with the Department in accordance with the Agency APIs defined in the LADOT Mobility Data Specification ("MDS").³ Compliance with such APIs requires Checker-operated vehicles to notify the Department with temporal and geo-located information before, during, and

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after every metered trip (“MDS Data”).⁴ The Department will compare MDS Data to the licensed meter data reported by Checker to the Department to determine whether Checker is operating in accordance with the requirements set forth in the permit granted to Checker by the Department. At its sole discretion, Department authorized personnel may conduct random audits of Checker without warning.

4. Checker Cab shall submit to the Department a complete record of all complaints received; the name of the individual or individuals assigned to the complaint; the resolution, if any, including any penalty assessed; and the date of resolution. The company shall also provide, upon demand by the Department, a copy of all documentation, including any investigative reports.
5. Require Checker to submit to the Department a detailed and concise business plan, including disciplinary actions for violations of Los Angeles City rules and regulations, programs for the education of the drivers and prevention of fraud to be approved by the Department prior to acceptance by the Department.

Applicable Regulations

Board Order 471, Rule 201 states:

“Each taxicab operator and its management, employees, lease drivers, each vehicle permittee, each driver, and each member’s lease drivers and employees are individually and jointly responsible for complying with rules and regulations of the Board; all sections of the LAMC, the Los Angeles Administrative Code and other ordinances of the City; any rule or regulation of the Department of Airports; and any section of a State Statute or Administrative Code relating to the operation of a taxicab or a vehicle for hire. Through adjudication, only one taxicab rule shall be applied for a specific infraction when Rule 201 is cited in addition to another taxicab rule for the same offense.”

Board Order 471, Rule 402 states:

“Each taxicab operator or vehicle permittee shall equip each taxicab with:

A State approved taximeter, currently certified for the specific vehicle in which it is installed and with unbroken State inspection seals affixed. All replacement meters shall be certified by a State sealer, registered with the Los Angeles County Department of Weights and Measures, and inspected by the Department within seven calendar days after the vehicle is placed into service with a new or replacement meter.”

⁴ In consideration of this demand, Department will offer technical support to Checker to assist in their compliance with this requirement. The Department technical support will be equivalent to the support Department provided to Mobility Service Providers for the Dockless Mobility one-year permit.

Board Order 471, Rule 420 states:

“Each taxicab operator and vehicle permittee shall maintain the taximeter in good working condition at all times.”

Board Order 471, Rule 429 states:

“The taxicab is found to contain a rate other than authorized. The meter shall have installed only the approved rates and extra charges. All mechanisms, devices and/or electronic programs attached, installed or used in connection with the meter shall not facilitate the perpetration of fraud. No schedule of rates contained in the taximeter may be higher than those authorized for the City of Los Angeles unless authorized by the Board of Taxicab Commissioners.”

California Business and Professions Code §12510(a)(5) states:

“Any person who by himself or herself, or through or for another, does any of the following is guilty of a misdemeanor:

- (1) Sells or uses any device or instrument to be used or calculated to falsify any weight or measure.”

Franchise Ordinance #181423, Section 1.0 DEFINITIONS:

CO-OPERATIVE, ASSOCIATION or MEMBERSHIP: “An independent taxicab enterprise or organization owned and operated by its Members for the financial benefit of its Members. Each authorized taxicab fleet slot correlates to a share and/or ownership in the Membership.”

INVESTOR/SHAREHOLDER: “A Member of Grantee who does not manage or control taxicabs in Grantee.”

MEMBER: “An individual person or Subchapter S corporation, as defined in the United States Internal Revenue Code Section 1361, who owns one or more taxicabs and/or shares, but not more than the maximum number allowed by this ordinance, in Grantee. Only those individuals applying for Investor/Shareholder membership status may apply as a Subchapter S corporation.”

Franchise Ordinance #181423, Section 402 “Operations and Service – General:

- (a) “All vehicles, equipment and appurtenances used under this Franchise shall be operated and maintained in accordance with all applicable Federal and State laws, ordinances of this City and order of the Board. Grantee shall be responsible for the compliance of its Members and drivers with all such laws, ordinances, rules and orders.”
- (b) “The number of taxicabs operated pursuant to this Franchise, the manner and time of all

operations, the transportation service provided, and the rates or fares charged, shall at all times conform to such regulations as shall from time to time be fixed or prescribed by the City and/or Board,”

Franchise Ordinance #181423, Section 403 “Operations and Service – Taxicabs:

- (b) “All taxicabs used by the Grantee within the City shall be operated under and pursuant to the provisions of this Franchise and Board requirements and not otherwise. Each such taxicab shall be equipped with City decals and/or equivalent City identification as ordered by the Board by resolution. Grantee shall not allow any taxicab to be driver which is in violation of the terms of this Franchise or any Board requirements.”

Board Order 471, Rule 906 states:

“A driver or taxicab operator may appeal the decision of the Department by filing with the Department an Appeal Request Form within three working days of the Department hearing. Such Appeal Form shall present the basis for protesting the decision of the Department.”

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