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NEW YORK CITY TAXI & LIMOUSINE COMMISSION

PUBLIC HEARING

Held on Thursday, September 16, 2010

40 Rector Street

New York, New York

Time: 10 a.m.

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FIVE STAR REPORTING INC.,
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A P P E A R A N C E S:

- DAVID YASKY, Chairman
- HARRY GIANNOULIS, Commissioner
- LAUVIENSKA POLANCO, Commissioner
- ED GONZALES, Commissioner
- IRIS WEINSHALL, Commissioner
- ELIAS AROUT, Commissioner
- CHARLES FRASER, General Counsel

* * *

1

2

MR. YANSKY: Good morning. We

3

can we get started? I think we have a

4

relatively brief agenda today. So we'll

5

shoot for a efficient meeting. Let me

6

start out with a report on some of the

7

issues we have underway here.

8

First, a few of the pilot

9

programs that have just started or just

10

completed. The group ride vehicle pilot

11

that the commissioner approved in July,

12

thanks to really extraordinary work by

13

Deputy Commissioners Gary Weiss and

14

Ponsey Mines (phonetic), the policy

15

staff headed by Emily Garrow (phonetic)

16

and couldn't a deputy commissioner for

17

administration, all of them worked super

18

hard to get this up and running really

19

fast to get this up and running. We

20

started on Monday this week with one

21

service in one area, three more will

22

start this coming Monday, the 20th, and

23

the fifth will start the following

24

Monday, the 27th. We have early reports

25

of low usage in the first couple of days

1
2 unsurprisingly it will take some time
3 for passengers to know that the service
4 is there and choose whether to use it or
5 not so we figure it will be a period of
6 months to figure out whether it's taken
7 hold or not. But we are very optimistic
8 and we are also very pleased with the
9 operation of the provider today and the
10 other providers seem poised to go. As
11 you know, we have a lawsuit challenging
12 our ability to authorize this type of
13 service filed on behalf of the Transit
14 Workers Union, the Law Department did an
15 excellent job and commissioners, I want
16 to publicly commend them, they paid
17 close attention to their work and it was
18 superb and they did a terrific job in
19 defending us and one of the initial
20 decision and now we expect that there
21 will be an appeal, but we feel pretty
22 confident about the posture.

23 The livery stand pilot program
24 that the commissioner approved in May
25 2009, that is to pilot, you know, on

1
2 demand service by livery operators at
3 places where there appear to be a high
4 demand for walk-in service with a
5 dispatcher, you approved that in May of
6 2009. So far, we have selected two
7 sites for this type of stand, the first
8 is the ferry terminal in Staten Island,
9 opened last week. We officially opened
10 it yesterday but there has been a
11 dispatcher there and signs are up and it
12 has been in operation since last
13 Tuesday, over the first eight days, I
14 guess, Tuesday through Wednesday, so
15 it's nine days, I suppose. Some 2000
16 people have already taken advantage of
17 that, people getting off the Staten
18 Island Ferry and looking for a cab and
19 undoubtedly many, maybe most of those,
20 would have gotten into a car that was
21 illegally cruising for street hail in
22 this case ferry terminal hail type
23 service prior to this. So I think this
24 is just a huge success and bodes well
25 for this type of pilot elsewhere.

1
2 The other location is Jamaica terminal.
3 Jamaica station in Queens and at the
4 Long Island Railroad terminal there,
5 that we expect, by that we expect to be
6 by thanksgiving in operation. The
7 operator there is putting some
8 investment into it, not just a booth,
9 but they are building out a somewhat
10 larger facility, so that should be up
11 and running by Thanksgiving.

12 The third pilot program, the
13 Rosco pilot program authorized the use
14 of video recorders and data recorders in
15 taxicabs. The idea was to see if those
16 kind of recorders could improve safety
17 by giving more information after an
18 accident, I suppose. Now, the
19 commissioner approved this pilot program
20 in December 2008 but ultimately only one
21 vendor participated in the pilot
22 program, that's Rosco, Inc. they
23 installed video recorders in a total of
24 one taxicab over the life program. So,
25 with all our pilot programs, they have

1
2 submitted a report on the results of the
3 pilot program and our staff has
4 evaluated those results, our conclusion,
5 is that the pilot program did not
6 produce evidence that installation of
7 video recorders in taxicabs will produce
8 accidents or insurances premiums or
9 otherwise achieved tangible benefits to
10 drivers, owners or the public. Now, for
11 that reason and for this industry
12 interest has been low, again, a total of
13 one taxicab decided to participate. I
14 am not recommending any further action
15 by the commission and so the pilot will
16 expire in a few weeks, October 14th is
17 the last date. Those are the three
18 pilot programs underway.

19 The taxi driver protection act, I
20 want to give you a quick update on that.
21 As most of you know, state legislature
22 passed the taxi driver protection act in
23 June. This bill, both houses passed it.
24 The bill will increase criminal
25 penalties for violent crimes committed

1
2 against drivers in course of for-hire
3 operation. I don't need to tell anyone
4 in this room, the commissioners or any
5 of the industry people that are here
6 that driving a for-hire vehicle, a
7 taxicab or another for-hire vehicle is a
8 dangerous profession, you are letting
9 the public into a small space with you
10 many times, maybe dozens of times in the
11 day and despite our best efforts with
12 partitions in vehicle, camera systems,
13 trouble lights and other safety measures
14 it remains a profession where there is
15 risk to drivers personal safety as well
16 as underscored by the horrendous
17 stabbing that you all know about in
18 August. Driver safety is always a
19 paramount concern to us at the
20 commission. The bill has been forwarded
21 to the governor, it was forwarded to the
22 governor on September 7th, it is pending
23 before the governor. I certainly hope
24 that he will choose to sign it.

25 Couple of other items about, in

1
2 the world out there that affects the
3 industry. Brooklyn Bridge closure, you
4 may have noticed that there is now
5 reconstruction work underway at the
6 Brooklyn Bridge, on the Brooklyn Bridge
7 that the Brooklyn bound traffic on the
8 bridge has been closed overnight -- I am
9 sorry, Manhattan bound traffic on the
10 bridge has been closed overnight and we
11 have had reports that there is an
12 upswing in passenger refusals; in other
13 words, drivers in Manhattan refusing to
14 take passengers to Brooklyn, presumably,
15 due to their concern that it would be
16 difficult to get back into Manhattan
17 after they take a trip there to
18 Brooklyn. So, the bridge work will be
19 going on, scheduled to continue for
20 four years, so this is not going away
21 tomorrow. I just want to make sure that
22 the public knows and/or everyone in this
23 room knows that we have no tolerance for
24 passenger refusals. We, the commission,
25 I think has been done a good job and we

1
2 continue to focus, we'll talk about this
3 in future meetings, we are talking about
4 continuing to focus on what we can do to
5 make it even easier for passengers to
6 register complaints and to improve our
7 processing of those complaints. But
8 certainly today, when anyone is refused
9 service, if that person calls 311, we
10 will issue a summons and we will pursue
11 it and make sure that the driver who did
12 refuse service, that that driver is
13 fined and the message is clearly sent
14 that we do not tolerate that behavior.
15 So, I just want to remind people that
16 when anyone is refused service, they
17 need to call 311, that's the best we
18 have a secret rider program, but there's
19 a fairly small number of people compared
20 to the hundred thousand passengers every
21 day. We need some self enforcement. I
22 got a call the other day from somebody
23 in Park Slope who was refused service
24 three times in one evening, and I said,
25 Did you get the medallion number? And

1

2

she said No. And I said, Well, this is

3

what we need you to do is when somebody

4

says no, you have to take down the

5

medallion number and call 311. And I

6

hope everyone will help us in the

7

commission in getting the word out that

8

people need to do that.

9

E-ZPass enforcement. We

10

discussed this a few months back, one

11

discovery that we made from the T-PEP

12

data is that there appears to be a

13

fairly high number of taxi drivers who

14

are not using the E-ZPass lanes,

15

presumably they don't have E-ZPass

16

release, an E-ZPass with money in it,

17

perhaps they do, but they are choosing

18

to use the cash lane anyway when they go

19

through the Midtown Tunnel or the

20

Triborough Bridge. As you know, our

21

rules require that taxis use E-ZPass

22

lanes at those crossings so the

23

passengers can have the benefit of the

24

E-ZPass discounts since the tolls are

25

paid by the passenger. We have found

1
2 from the T-PEP data a pretty high number
3 of people who are using cash lanes
4 routinely. We have sent summonses out
5 to a hundred drivers, the hundred with
6 the largest number of cash lane
7 transactions. This is not the purpose
8 as with our enforcement, this is not
9 about bringing in revenues, it's not
10 ticketing the purpose of generating
11 money back, this is to make sure that
12 our rules are obeyed. So we have sent a
13 hundred summons out, my hope is that
14 that will send a message and we are
15 going to be monitoring behavior pretty
16 carefully and I just want the industry
17 to know that this is underway.

18 One last business item and then
19 to pleasure items. The licensing and
20 standards division under Gary Weiss
21 together with the MIS staff under Jeff
22 Bronfeld have implemented a significant
23 service improvement for the industry.
24 We as you know every day post a list on
25 a website of current licensees to that

1
2 industry medallion owners and brokers
3 and lessors, I guess, ensure that the
4 drivers that are taking the car for the
5 day or for the shift are duly licensed
6 and are in good standing with us. In
7 the past there has been a day lag on
8 that so people did not catch the most
9 recent activity and it went on the
10 website at a somewhat inconvenient time
11 for the industry. Now, starting last
12 week, this information is posted daily
13 and updated every day at 3 p.m. on the
14 website; it was done in conjunction with
15 industry folks who worked with us, but,
16 again, the licensing staff, the MIS
17 staff have accomplished this and it's a
18 significant improvement and I just want
19 to commend them for doing it.

20 Now, it is my pleasure to
21 announce that we have a personnel item
22 and then a past personnel item. I want
23 to announce that the Taxi & Limousine
24 Commission is promoting Georgia
25 Steele-Rodway with whom you are familiar

1

2

to the position of assistant

3

commissioner in the licensing and

4

compliance division.

5

(Whereupon there was applause.)

6

Georgia if you can start to make

7

your way up here.

8

That's real testament because you

9

are in the direct customer service part

10

of the business and applause from the

11

customers speaks volumes.

12

This is a critical position for

13

the agency, licensing, of course, is one

14

of our most important functions and our

15

first point of contact for the 400,000

16

plus licensees. Georgia is well known

17

to commission meeting attendees as the

18

voice of licensing division. She

19

presents staff recommendations on base

20

license application each month. She has

21

an outstanding record as director of the

22

base licensing unit.

23

We look forward to more great

24

things from George in her new position

25

and I would now like to present Georgia

1

2

with her badge as assistant

3

commissioner.

4

(Whereupon, badge was presented.)

5

Also, I do think it speaks well

6

of the director of the deputy

7

commissioner licensing division, Gary

8

Weiss, who I think does a terrific job

9

in nurturing the talent in that unit.

10

We have one other past personnel

11

item but before that I will just give

12

you a quick preview of the agenda items

13

that we are working on for the October

14

meeting. Again, this will be, I believe

15

a pretty brief meeting for me. October

16

will be a little busier. We have some

17

phase two and a half rules coming down

18

the pike. I think the first few are

19

pretty straightforward, we are requiring

20

that the camera systems in vehicles have

21

to be functioning properly. The rules

22

do not specify that now so we are just

23

clarifying that.

24

Second, that the drivers will be

25

required by our rules to give insurance

1
2 information to other motorists and
3 passengers in case of accidents, this
4 gives TLC independent enforcement. We
5 do get complaints about this from time
6 to time. We want our drivers, they are
7 accountable not just to the DMV but also
8 for us to make sure that they give
9 insurance information when there is an
10 accident. We are making some revisions
11 for critical driver rules, again, these
12 should not be controversial. We are
13 deleting the provision that allows TLC
14 summons based on DMV violations and
15 eliminates requirement for a separate
16 directive to take the distracted driver
17 course. What this means, we can just
18 streamline our process and when there is
19 enough DMV violations, we can simply
20 notify people that they are now required
21 to take the course and not have separate
22 summons for that. We have other rules
23 pending from the law department.

24 Charles any news from them?

25 MR. FRASER: We have one more.

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MR. YASKY: If so, I will do a dance of joy because I am very eager to get those rules passed. These are rules that will allow us to tighten up against some of the abuse where people seek four and five adjournments of the same summons. And I think in truth, that whether the rule is strictly needed or not, it certainly is a good idea to remind our administrative law judges that an adjournment needs to have a good reason for it and it should not simply be quickly granted as a matter of course. That's the main one among that group of rules. I hope it would be approved this week, if it is, it would be in time to go before you at the October meeting.

Now, before we turn to our business, I want to recognize and ask to join us up here Lou Tazzi who, as you know, served the commission with extraordinary distinction. He served the entire city with distinction for 37

1
2 years culminating in six years as the
3 Taxi & Limousine commissioner for
4 finance and administration. Lou brought
5 to the TLC a wealth of knowledge and
6 experience and judgement and common
7 sense at heart from, it says here, From
8 the Department of Environmental
9 Protection and the Department of
10 Transportation. I personally think that
11 those qualities were really unique
12 rather than things that he necessarily
13 acquired at DEP and DOT, but he
14 certainly brought them here. He oversaw
15 procurement here at a time when the TLC
16 embarked on and completed some ground
17 breaking procurement actions starting
18 with the T-PEP project. He successfully
19 maneuvered our upcoming move to new
20 offices at 60 Broad Street which
21 continues to astonish me as the
22 smoothest not just moving day, but has
23 gone just remarkably smoothly so far and
24 he left us with a truly healthy physical
25 situation. Not -- as the city continues

1
2 to experience difficulties. In November
3 we'll see what we are told what bigger
4 problems we have to address and, you
5 know, we'll figure out how to do them.
6 But for a city agency, we have enjoyed
7 genuine physical health and that's
8 really thanks to Lou's efforts. And in
9 recognition of all that we have, it's
10 traditional here at the agency for
11 people who served with Lou's level of
12 distinction his badge has been
13 transformed as a permanent keepsake item
14 and I would just like to present that to
15 him.

16 (Whereupon, badge was presented.)

17 Thank you Commissioner for
18 indulging me here. We move to the
19 adoption of minutes as we have a motion
20 for adoption of minutes.

21 MR. ELIAS: I move for the
22 adoption.

23 MR. YASKY: So moved. All in
24 favor say I.

25 (Whereupon, the panel voted

1

2

affirmatively.)

3

MR. YASKY: Opposed, no.

4

5

By unanimous vote the minutes of the July 15, 2010 commission meeting are adopted.

6

7

We now have base applications.

8

Assistant commissioner Steele-Radway is

9

you presenting these. You remain the

10

presenter. Now we can embark on a

11

month-long process to find someone to

12

take your old position.

13

MS. STEELE-RADWAY: Before I

14

present the listing today, there is one

15

base that I am requesting to be removed.

16

Before I present the bases today I am

17

requesting that B02344 be removed from

18

consideration. We may possibly present

19

it next month but for this meeting I am

20

requesting that it be removed.

21

Licensing would like to present

22

54 bases with a recommendation for

23

approval.

24

MR. YASKY: Yes, let's do the

25

approval.

1

2

MR. ELIAS: Good morning.

3

MS. STEELE-RADWAY: Good morning.

4

MR. ELIAS: Congratulations.

5

MS. STEELE-RADWAY: Thank you.

6

MR. ELIAS: I just have one

7

comment. I am very concerned about this

8

particular car service on Staten Island.

9

Since January 1st, they have been find

10

\$6,650. I went through the thing, very

11

concerned about everything, how can we

12

approve something like that?

13

MS. STEELE-RADWAY: It's my

14

understanding that -- I believe you are

15

talking about My Car Service, correct?

16

MR. ELIAS: That's correct.

17

MS. STEELE-RADWAY: I believe

18

they have hearings coming up in October

19

and November. They are issued the

20

summonses, but it's not, I really

21

wouldn't like to put a base for it

22

saying they are guilty until --

23

MR. ELIAS: I feel we should

24

really come down on this car service.

25

If we take their license away for

1

2

10 days, 30 days. I mean, they are just

3

walking right over us. That's not

4

right. I don't care how much money we

5

bring into the system, they are just

6

violating all the rules and regulations.

7

MR. YASKY: First, thank you,

8

Commissioner, for bringing that to our

9

attention. It will be my position as

10

the assistant commissioner says, we have

11

issued summonses of course we have

12

summonses we think that they are

13

accurate, but we have a process and I

14

don't think that we can, you know, we

15

can act on them until there is an

16

adjudication.

17

MR. ELIAS: Thank you.

18

MR. YASKY: I can assure you that

19

we'll do whatever we can within our

20

rules to make sure that a base that's a

21

problem is being, is living by the

22

rules. I appreciate you doing that.

23

And I also want to note that the base

24

that was on the list that was pulled,

25

Commissioner Polanco very helpfully

1
2 brought to the commission's attention
3 just over the last few days some
4 concerns about that base, that their
5 application, on the face of it is valid
6 and, you know, have come forward with
7 the processing and not revealed any
8 issue, but she directed some special
9 attention to it and revealed that there
10 was an issue that needs to be addressed
11 in a hearing. So that's why we pulled
12 it from the list for approval today and
13 they are going to go for a fitness
14 hearing. There are some factual
15 questions that have been raised and we
16 will see what factual questions can be
17 answered satisfactorily. So I just draw
18 your attention to that and I think it's
19 a great use of the commission when the
20 commissioners can bring those things
21 forward to us. And I want you to know
22 the staff followed up very promptly and
23 affectively, so thank you, Commissioner.

24 MR. ELIAS: Thank you,
25 Commissioner.

1

2

MR. YASKY: I do have a motion to
approve that.

3

4

MR. ELIAS: Motion approved.

5

MR. YASKY: All in favor, say I.

6

(Whereupon, the panel voted
affirmatively).

7

8

MR. YASKY: Opposed, no.

9

10

By unanimous vote the bases. Are
approved and you are now covering the
two that are recommend for tomorrow.

11

12

MS. STEELE-RADWAY: Yes, with a
request that the Commission grants an
additional 30 days so they could submit
their items.

13

14

15

16

MR. YASKY: Motion to approve.

17

MR. ELIAS: Motion approved.

18

MR. YASKY: All in favor say I.

19

(Whereupon, the panel voted
affirmatively).

20

21

MR. YASKY: Opposed, no.

22

By unanimous vote, those are
recommended for denial unless TLC
requirements are met within 30 days.

23

24

25

MS. STEELE-RADWAY: Thank you.

1

2

MR. YASKY: Thank you.

3

4

5

6

We have public hearings on two items they will be put for you for the Commission's action. General Counsel, Charles Fraser.

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MR. FRASER: The first one is black car retirement rules. These rules replaced existing rules on creating incentives for or creating a mandate for 25 miles per gallon for black cars and replace the existing rules on black car retirement with a different system that places a retirement limitation on black cars but a longer, a two-year bonus for level-one clean air vehicles and one-year bonus for level-two clean air vehicles which are defined in our proposed rules. They were published for comment, the comment period ended yesterday and no written comments were received and looks like no speakers have signed up to speak.

24

25

MR. YASKY: I will ask for a vote on these. We have talked about these in

1
2 the past, as you know, the Commission's
3 rules regarding fuel efficiency of
4 yellow taxis were challenged in court,
5 the rules were enjoined by both the
6 District Court and that junction has
7 know now been affirmed by the Second
8 Circuit Court of Appeals, I believe that
9 the City will seek Supreme Court review
10 of that, but for the time being, unless
11 I am told that the Supreme Court changes
12 that, we are living with the ruling that
13 does restrict our ability to require
14 fuel efficiency.

15 The rules that have been replaced
16 for the black car industry had not been
17 challenged and not subject to that,
18 technically not subject to that ruling,
19 but kind of reading it fairly, I think
20 we really had little choice but to
21 revise them to put in place the same
22 type of retirement age incentives that
23 we have in the yellows that are not
24 prohibited by that opinion, so that's
25 what's driving us so to speak here.

1

2

Do I have a motion to approve
these rules?

3

4

MS. WEINSTALL: Yes.

5

6

MR. YANSKY: So moved and
seconded, even though it's not
necessary, we will get through that
anyway.

7

8

9

All in favor say I.

10

11

(Whereupon, the panel voted
affirmatively).

12

MR. YASKY: All opposed, no.

13

14

By unanimous votes black car
retirement rules changes are adopted.

15

Mr. Fraser.

16

17

MR. FRASER: The next item is
taxicab reinspection fees. Since, I
believe, 1991 taxicab inspection fees
have been \$50 for the first inspection,
if that inspection has failed, the
second inspection is free, the third
inspection is \$35, the fourth inspection
and thereafter are free. The City
counsel recently revised the law that
fixed those fees, changed the law up to

18

19

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21

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1

2

\$50 for all inspections or for each

3

inspection and therefore these rules

4

propose that the initial inspection will

5

remain at \$50 and the second and all

6

subsequent inspections would be \$35

7

under this proposal.

8

Again, they were published for

9

comment, the comment period ended

10

yesterday, we received one written

11

comment, copies of which should have

12

been distributed to the commissioners

13

and that commenter has signed up to

14

speak today.

15

MR. YASKY: Mr. Taylor, you have

16

signed up to speak.

17

MR. TAYLOR. Chair Yasky, Counsel

18

Fraser, Commissioners, "The proposed

19

rule amendment references the inspection

20

requirements given in Commission Rules

21

Section 1-10, 8-28 and 8-30. In order

22

to protect passenger cardholder data

23

from security breaches leading to theft

24

of passenger cardholders magnetic stripe

25

account data and the damaging fraud

1
2 resulting from these breaches, an
3 explicit T-PEP system taxi inspection
4 requirement must be added to Rule
5 Sections 1-10 and 8-30. Taxi
6 inspections must ensure that the
7 inspected taxis' T-PEP fare payment
8 system is not in violation and is in
9 compliance with the PCI DSS and the
10 PA DSS cardholder data security
11 standards for the maintenance of secure
12 payment systems and applications that
13 has not been altered by tampering. The
14 approved T-PEP systems may be vulnerable
15 to tampering in various unpredictable
16 ways, and I am not to suggesting that it
17 would be the driver who would be the
18 tamperer. Is now urgent that the T-PEP
19 inspection fare payment systems be added
20 to the inspection process. The approved
21 T-PEP fare payment system are likely in
22 violation of the 2010 more rigorous PCI
23 DSS security standards due to improper
24 installation and configuration and if
25 that is the case, the cardholder account

1

2

data would therefore be at risk to

3

cardholder account data security

4

breach."

5

MR. YASKY: Thank you, Mr. Taylor

6

for your comment. First of all, this

7

rule deals with the inspection fees

8

rather than the substance of the

9

inspection, but --

10

MR. TAYLOR: Your point is well

11

taken. But in the rule, the text is

12

explicit, that's why I took the

13

opportunity.

14

MR. YASKY: I am sure you will

15

sit down in a moment, but I just want to

16

give you the courtesy of responding to

17

your concern, that's point one. Point

18

two is on the security issue, needless

19

to say, we are deeply committed to

20

ensuring the security of passenger

21

credit card information. As you

22

probably know, our agreements with the

23

T-PEP vendors require them to protect

24

the security of that information and we

25

do deal with them day in day out and

1

2

make sure from our, retrospectively that

3

they have done that. We have no reason

4

to think that there have been any

5

breaches to date.

6

And far as the inspections go, it

7

would be nice if we could inspect for

8

every feature at Woodside, but I just

9

think that there, at least at present,

10

there is really no way for our

11

inspectors to check the internal

12

functioning of the onboard computers as

13

far as the securities goes in the way

14

that you suggest. So, while we share

15

your concern on security, incorporating

16

that in the Woodside inspection is not

17

something we can deal with at this

18

moment.

19

MR. GONZALES: Can you state just

20

briefly what we do check or how we

21

monitor?

22

MR. YASKY: We do check the

23

function of the meter, of course, we

24

check to see that the screen is working

25

the way it should, people can turn it

1

2

off, that in light of the, you know, the

3

overcharge issue, that if the driver

4

switches the fare code that the required

5

alert shows up. We do check that the

6

credit card swipe mechanism is

7

functioning properly.

8

MR. FRASER: There are actually

9

255 point checklists that they check

10

for. My recollection it's some

11

30-something are the DMV mandates, the

12

standard vehicle inspection that any

13

cars have to go through, so the rest are

14

all non-DMV.

15

In addition, from time to time

16

there might be special things we are

17

looking for, so some new display or

18

software we are looking for being

19

displayed on the passenger information

20

monitor, they will look at that until

21

they are satisfied that's that been

22

done, that sort of thing. The only

23

reason that's referred to in this

24

proposed rule is that the law that the

25

counsel passed allows us to charge the

1

2

reinspection fee when the failure was

3

for a DMV item but not otherwise, and so

4

we had to delineate those two so we can

5

distinguish. That happens to have been

6

our practice anyway, but now it's law

7

and had to be put down in the rule.

8

MR. YASKY: So I have a motion to

9

approve this rule?

10

MS. WEINSTALL: So moved.

11

MR. YASKY: All in favor say I.

12

(Whereupon, the panel voted

13

affirmatively).

14

MR. YASKY: Opposed, no.

15

By unanimous votes the rule on

16

reinspection fees is approved.

17

We have one final item for vote

18

today, this is the rule on our

19

enforcement capability for the livery

20

base Workers' Compensation fund. We

21

discussed this, as you recall, at the

22

July meeting, at that time, there were

23

some concerns raised by some

24

commissioners and by folks in the

25

industry. We have continued to talk

1
2 with the industry and make sure that we
3 explain why we believe these rules are
4 necessary and appropriate. I, in truth,
5 do not think this is a, I am surprised
6 at the amount of time that the
7 Commission has devoted to today. I
8 don't think that these rules will be
9 called into play very often, if at all.
10 We have had, I think an excellent
11 experience in backstopping, if you will,
12 the black car workers' comp. fund and
13 Gary Weiss who runs the license division
14 really does a superb job when there is
15 an issue, bring it to the attention of
16 one of the black car base that is at
17 issue and to the fund and just, you
18 know, following up to see that it's
19 resolved without having to use any kind
20 of heavy-handed authority, but they are
21 in the background, if need be. That's
22 the point here with these black car
23 rules as well. In most of them, we are
24 explicitly limiting the enforcement
25 authority to cases where the fund itself

1
2 requests enforcement, not in every case
3 where there is a base that misrepresents
4 facts, deceives the fund, anyone who
5 does that, we are retaining the
6 authority in that unlikely event to have
7 our own fine for that behavior because
8 we do have an independent interest in
9 the integrity of our licensees, not that
10 I think that that's likely to happen but
11 in the event that it does. We know a
12 number of people, I believe that some
13 people, at least, have requested to
14 testify on this, we had a public
15 hearing, first public hearing on the
16 rule before it came to the commission.
17 At the last commission meeting we had
18 discussion of this, I don't want to have
19 the precedence that when the public
20 hearing requirements have been met where
21 we, nonetheless, have public testimony
22 if requested. So, I am not going to
23 entertain any testimony on this item
24 today, rather, it's here for vote by the
25 commission.

1

2

MS. POLANCO: I have a question.

3

Since the meeting regarding this rule

4

was adjourned to today, so, is it that

5

no change has been made to the rule so

6

no public testimony is being taken?

7

Because if there are additional comment.

8

MR. FRASER: No changes have been

9

made to the rule and (inaudible)

10

requires a public hearing which we had.

11

I believe all of the people who asked

12

again to testify today already

13

testified. In any event, since we did

14

not notice a public hearing, anyone else

15

who might have wanted to testify, just

16

for example in favor of the rules, was

17

not on notice that they might have had

18

that opportunity. So, I generally agree

19

that I think it's not a good idea to

20

allow eight speakers on one side of the

21

question to come in when that has not

22

been noticed.

23

MR. ELIAS: They make rules that

24

we accept.

25

MR. YASKY: Motion to approve the

1

2

rules, all in favor say I.

3

MS. POLANCO: I have questions on the qualifications, on the rule.

4

5

MR. YASKY: Yes?

6

7

MS. POLANCO: I just want to make sure that when the livery fund notifies

8

TLC that a base is no longer a member,

9

what is it that TLC does? Is it they

10

send notification to the base saying

11

that they need to comply or a hearing is

12

held? And I comparing it to when a base

13

it has private, or has workers' comp.

14

insurance to a private company.

15

MR. FRASER: The answer to that

16

part of the question is the same thing;

17

in other words, you are either covered

18

or not covered. And if you're not

19

covered by either one, then what we do

20

is, we seek your suspension until

21

compliance. We hold, we schedule a

22

hearing, hold a hearing and if you are

23

found not to have coverage, you are

24

finned, I believe, it's \$25 a day that

25

you were not covered up to a maximum, I

1

2

believe it's five or 10,000, is the

3

maximum. And then you are also

4

suspended until you get coverage. The

5

whole point being you can't operate

6

while you are not covered.

7

MS. POLANCO: So there is no

8

initial opportunity even if you have

9

private insurance or the livery fund

10

there is no initial opportunity for

11

those people to show compliance; there

12

is an automatic hearing or suspension?

13

MR. YASKY: Mr. Fraser, his

14

answer is accurate as far as the rules

15

go in practice with the black car fund.

16

For what it's worth, the licensing

17

division notifies, and Deputy Weiss can

18

take you through this, the practice we

19

have done with black car fund will deal

20

with this as well, is that the licensing

21

division notifies the base of this

22

problem, gives them an opportunity to

23

cure it before there is a hearing.

24

MR. WEISS: That is correct what

25

the Commissioner just said. When we are

1
2 notified by the black car fund that
3 someone has dropped out of the fund, we
4 send them a directive, if they haven't
5 already notified us that they now have
6 private insurance, we send them a
7 directive we have been notified by the
8 black car fund that they are no longer a
9 member and we request they provide us
10 with a copy of their current workers'
11 comp insurance policy. We generally
12 give them a time period usually 15 to
13 20 days to comply. At that point, if
14 they don't, we will then issue summonses
15 to noncompliance with the directive it
16 reached the point of -- and as
17 Mr. Fraser said, we would then proceed
18 with a summons and a hearing and then
19 you could end up with your license
20 suspended and fines would be assessed.

21 MS. POLANCO: So, is that a
22 written directive or just a practical
23 thing that is done?

24 MR. WEISS: It's a general
25 standard directive. It's normal

1

2

business practice.

3

MR. YASKY: It's a written

4

directive to answer your question. It's

5

not required in our rules and people

6

would say Well, you know, that's a good

7

practice where we require -- everything

8

require rules, then if you are a day

9

late or a day short, we are bound by our

10

rules.

11

MS. POLANCO: It's just

12

clarification, then, the same practice

13

would be applied when it goes to the

14

independent livery fund?

15

MR. YASKY: I can represent to

16

you that that is going to be our

17

practice, folks in the fund say, Well,

18

that's true now, but everything is

19

context over the commission and then you

20

stop doing that now, it's a caricature,

21

but it's a fair point, maybe, everything

22

should be written out in the rules. But

23

I do think the process in the rules is a

24

perfectly fair process because we are

25

not looking to fine unless it's

1

2

absolutely necessary. It's been Gary's

3

practice, the commission's practice to

4

first notify and give people opportunity

5

to cure, and I can assure you that

6

that's certainly our intention to

7

continue that way. I don't think that

8

needs to be written into the rules.

9

MR. GIANNOULIS: That would be my

10

position. In this context, I vote that

11

Commissioner Weinshall stays in that

12

seat.

13

MR. YASKY: I am certainly

14

betting on Commissioner Weinshall in

15

that measure. So, there is a motion on

16

the table, I appreciate Ms Polanco,

17

thank for airing the issues rather than

18

not. Again, I will ask for Is and then

19

nays. All favor say I.

20

(Whereupon, the panel voted

21

affirmatively).

22

MR. YASKY: All opposed, nay.

23

By unanimous vote, the rule is

24

adopted. Commissioners thank you so

25

much for your attendance this morning, I

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will see you in October, if not before.
With that, the meeting is adjourned.

(Whereupon, at 11:10 a.m., the
above matter concluded.)

I, KAREN D. WILLIAMS, a Notary
Public for and within the State of New
York, do hereby certify that the above
is a correct transcription of my
stenographic notes.

KAREN D. WILLIAMS