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NEW YORK CITY LIMOUSINE COMMISSION

PUBLIC HEARING

Held on Friday, February 19, 2010

40 Rector Street

New York, New York.

Time: 2:30 p.m.

1 B E F O R E:

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5 CHARLES FRASER, General Counsel
6 CHRISTOPHER WILSON, ESQ.

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7 ALSO PRESENT:

8 ALISON HARTWELL, General Counsel

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2 MR. FRASER: Good afternoon. My name
3 is Charles Fraser. I'm the General Counsel
4 at the Taxi and Limousine Commission. To my
5 left is Assistant General Counsel Christopher
6 Wilson who is the lawyer heading up the Rules
7 Revision Project.

8 We are in the second phase of the Rules
9 Revision Project, the second phase being what
10 we're calling the Zero Sum Phase, meaning
11 that we're rewriting the rules to make them
12 clearer, plainer English, reorganizing them
13 to make them simplified and more accessible,
14 more user-friendly, but we are making minimal
15 changes to the substance of the existing
16 rules.

17 Phase 3 of the Rules Revision will
18 involve substantive changes, but that's not
19 what we're doing now. So, for those of you
20 who have comments that are essentially asking
21 for substantive changes in the rules, by all
22 means submit them, but please understand that
23 we will not be making those changes at the
24 current time. We will be considering
25 substantive changes at a future point in the

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2 project.

3 Also, although we published a notice of
4 this hearing with a deadline time to comment,
5 for those of you here, and for those of you
6 who may read the transcript later online,
7 feel free to submit comments at any time
8 during the process because we will continue
9 to read them and consider them as we go
10 forward until we finally conclude the Rules
11 Revision Project.

12 I have three registered speakers today.
13 First is Mr. Giannetto. If you have written
14 comments or a written version of your oral
15 comments, I'll be glad to take them.

16 MR. GIANNETTO: My name is Joseph
17 Giannetto, and I'm the director of business
18 development for the Metropolitan Taxicab
19 Board of Trade which is a trade association
20 representing the owners of approximately
21 3,500 medallion taxicabs.

22 I am here to submit for the record
23 comments prepared by MTBOT's general counsel,
24 Peter Mazer in connection with the proposed
25 revisions to the Taxicab Owners Rules.

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2 Unfortunately, Peter could not be here today
3 because he is attending to personal family
4 matters out of town.

5 Thank you for giving us the opportunity
6 to comment. We join with all segments of the
7 taxicab and for-hire vehicle industries in
8 ensuring that vehicles are safe, and that
9 medallion owners act responsibly in serving
10 the public which is our primary
11 responsibility.

12 In as much as the TLC has stated that it
13 does not intend that these rule revisions to
14 include substantive changes, we are
15 submitting extensive comments -- we are not
16 submitting extensive comments today, and our
17 comments do not generally address fundamental
18 policy concerns that we have with the rules,
19 but rather, we point out those areas wherein
20 the proposed Owners Rules contain significant
21 deviations from the existing set of rules or
22 the Administrative Code or Charter
23 provisions.

24 Now, these comments are not intended to
25 provide an exhaustive review of the Owners

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2 Rules, but it merely intended to highlight
3 some of the major concerns which we have with
4 the ongoing process to recodify the rules.
5 As these comments demonstrate, subtle and
6 apparent insignificant changes in language
7 will have a major effect on licensees.

8 I hope that the Commission finds these
9 comments useful, and again, we are always
10 ready to continue the dialogue with the
11 Commission and other stakeholders in revising
12 these rules to protect the public interests.

13 I respectfully submit those comments for
14 your consideration for the record, and thank
15 you very much.

16 MR. FRASER: Thank you, and we will of
17 course study the written comments, and please
18 convey our condolences to Mr. Mazer.

19 MR. GIANNETTO: Will do. Thank you.

20 MR. FRASER: The second person signed up
21 is Ms. Desai.

22 MS. DESAI: Good afternoon. I'm
23 actually going to being very brief since you
24 have so many speakers lined up today. Good
25 afternoon. I'm Bhairavi Desai, executive

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2 director of the New York Taxi Workers
3 Alliance.

4 Our comments are actually about more
5 substantive issues, but I would just like to
6 put them on the record at today's hearing.
7 They are with regards to two specific areas.

8 First is the credit card processing fee
9 which is capped at five percent in the
10 rules. We feel very strongly without a doubt
11 that each individual taxi driver should have
12 the right to be their own merchant account
13 holder. There should not be an additional
14 processing fee beyond the one that's charged
15 by the merchant bank. We think it is
16 absolutely unfair that, particularly on tips
17 and tolls and the M.T.A. tax now, drivers
18 have to lose five percent. So, in essence,
19 they are losing five percent on a tip where
20 if they were employees such as restaurant
21 workers, it would be considered illegal under
22 the Department of Labor laws.

23 To us, it does not matter whether
24 drivers are considered independent
25 contractors or employees, they earn that tip

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2 through their hard labor and it should be not
3 be subjected to any sort of a surcharge fee
4 taken by an entity that has had absolutely
5 nothing to do with allowing that driver to
6 complete their labor and earn that tip.

7 It is also unfair that on the toll,
8 drivers lose five percent. It is the first
9 time in this industry's history that we know
10 of where a percentage of the cost of the trip
11 is being subsidized by the taxi driver. It
12 is unheard of in most industries and it is
13 certainly unprecedented in ours.

14 On the M.T.A. tax, drivers are paying
15 2.5 cents on every single fair. This is a
16 tax that should not even have been imposed on
17 this work force, and to add insult to injury,
18 to be losing five percent on every
19 transaction, and having to subsidize that tax
20 out of your own hard-earned earnings, it is
21 criminal. In fact, the Daily News has
22 editorialized that the five percent is
23 criminal, and they've actually compared it to
24 organized theft and have editorialized that
25 it should be considered a felony to be

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2 ripping drivers off of this hard-earned
3 money.

4 Secondly, the second subjective issue
5 for us is the definition of the lease caps.
6 Garages continue to charge weekly drivers by
7 the daily cap. In essence, they are
8 bypassing the TLC's rules on the weekly lease
9 cap. So, it means a driver who is
10 contributing -- you know, this is their daily
11 bread, they're working sixty to seventy hours
12 a week, they should be charged at the weekly
13 rate, not at the daily rate, and TLC rules
14 should make it absolutely clear that a driver
15 who works consecutively throughout the week
16 must be charged at the weekly lease cap and
17 cannot be charged they daily cap.

18 Thank you.

19 MR. FRASER: Thank you very much. And
20 our final speaker is Mr. Thaler.

21 MR. THALER: I would like to summarize
22 at least two issues which are detailed in my
23 written comments that are arguably
24 substantive, but I'll briefly summarize
25 them.

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2 The first one has to do with 8-25(h)1,2
3 operations, Rates and Tolls permits an
4 owner/merchant to "passalong" up to five
5 percent of the total credit/debit charges to
6 a driver but not to a passenger. However, in
7 this application of New York State Law to an
8 independent contractor, lease driver who is
9 not a party to the merchant agreement between
10 the medallion owner/card merchant and the
11 vendor's Merchant Acquirer prohibits a
12 "passalong" to both the driver and the
13 passenger and should therefore be prohibited
14 from being charged to the driver and
15 passenger in 8-25.

16 Moreover, the additional 1.25 percent
17 permitted passalong in addition to the
18 merchant processing fee cap of 3.75 percent
19 is equivalent to a usurious financing APR of
20 228 percent for a two-day merchant
21 settlement.

22 The second item is under Rule 8-20.1,
23 Leasing a Taxicab or Medallion, the Taxi
24 License is the authority granted exclusively
25 to the Taxi License Applicant by the TLC to

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2 operate only the Taxi License owner's
3 designated vehicle as a taxi in the City of
4 New York.

5 However, a Medallion Only Lease implies
6 the Commission's sanctioning of an unlicensed
7 DOV operation in violation of the Taxi
8 License. The Medallion License does not
9 grant the Taxi License owner the authority to
10 transfer the rights and responsibilities of
11 management the taxi operations of medallion
12 owner lessee as part of a lease agreement.
13 This is equivalent to ignoring the illegal
14 attempt by a licensed gun owner to lease
15 their gun license only to an unlicensed gun
16 owner for use by the unlicensed gun owner in
17 the licensed jurisdiction. The "Medallion
18 Only Lease" rules ignore this violation and
19 are limited to the financial issues of the
20 lease cap and requirement that the lease must
21 be in writing.

22 To remedy this legal oversight, a grant
23 of a Medallion Taxi Sub License to a DOV
24 operator by the medallion owner must also be
25 defined under TLC Rules, and I propose the

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2 following definition:

3 A Medallion Taxi Sub License is the
4 authority granted by the Commission to a
5 Medallion Taxi Licensee to transfer the
6 rights and responsibilities for taxi
7 operation and management together with a
8 Medallion Only Lease to a DOV operator to
9 operate the DOV operator's designated vehicle
10 as a taxi in the City of New York.

11 Thank you.

12 MR. FRASER: Thank you. I noticed some
13 people came in while we were hearing
14 testimony. Is there anyone else who wishes
15 to speak?

16 (No response)

17 MR. FRASER: No. Okay. Thank you very
18 much for coming.

19 (Whereupon, the proceeding was adjourned
20 at 2:45 p.m.)

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1 C E R T I F I C A T I O N

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3 STATE OF NEW YORK)
4 COUNTY OF NEW YORK) : SS.:

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7 I, CASEY MARTIN, a Stenotype Reporter and
8 Notary Public for the State of New York, do hereby
9 certify:

10 THAT this is a true and accurate
11 transcription of the Taxi and Limousine Commission
12 Public Hearing held on February 19, 2010. I
13 further certify that I am not related either by
14 blood or marriage to any of the parties in this
15 matter; and

16 I am not in any way interested in the
17 outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this 19th day of February 2010.

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CASEY MARTIN

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