



CITY OF PORTLAND

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HEARINGS OFFICER'S ORDER

APPEAL OF CRAIG BLADOW, DBA SUPER STRETCH LIMOUSINE LLC

CASE NO. 3110119

DATE OF HEARING: April 14, 2011

APPEARANCES:

Craig Bladow, Appellant

Kathleen Butler, for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Kathleen Butler ("Butler"), Regulatory Division Manager for the City of Portland Revenue Bureau appeared at the hearing as the City representative. Mr. Craig Bladow ("Bladow"), owner of Super Stretch Limousine LLC ("Super Stretch"), appeared at the hearing and acted as his own representative. Mr. Frank Dufay ("Dufay"), Regulatory Program Administrator for the City of Portland Revenue Bureau, appeared at the hearing and testified on behalf of the City. The Hearings Officer makes this decision based upon the testimony and arguments presented by Butler and Bladow, testimony offered by Dufay and Bladow, and the documents admitted into the evidentiary record (Exhibits 1 through and including 22).

The City issued a letter, dated March 1, 2011, titled "Violation of PCC 16.40.130; LPT Company Permits Required" (Exhibit 4). Exhibit 4 shall hereafter be referred to as the "Determination Letter." This Determination Letter refers to Bladow DBA Super Stretch Limousine LLC ("Bladow / Super Stretch.") Bladow, the appellant in this case, submitted a letter dated March 4, 2011, titled "Written Appeal" (Exhibit 1a). Exhibit 1a shall hereafter be referred to as the "Appeal Letter."

In summary, the Determination Letter, states that Bladow was doing business as Super Stretch and (1) violated Portland City Code ("PCC") 16.40.130 and 16.40.030 Y. by "causing or allowing another person to..." operate as a for-hire vehicle business on or about February 18, 2011 when Super Stretch did not have a City Limited Passenger Transportation ("LPT") permit and (2) violate PCC 16.40.030 Y. by advertising for-hire vehicle business to be conducted in the City of Portland at a time that Super

Stretch did not have a LPT permit. As a result of the alleged violations of PCC 16.40.030 the City assessed a \$1,000 civil penalty against Bladow/Super Stretch. In summary, Bladow in his Appeal Letter, stated that Super Stretch (1) did not take a booking from Dufay on or about February 18, 2011, (2) no specific vehicle was discussed by the Super Stretch representative in discussions with Dufay on February 18, 2011, and (3) had a booking actually occurred for Dufay on February 18, 2011, the vehicle assigned would have been a US/DOT interstate legal vehicle and not subject to control by the City.

The following sections of PCC 16.40 relate to "for-hire" transportation services operating within the City in the context of this case:

- PCC 16.40.130 A. - "no person or entity may conduct business as an LPT for-hire transportation company without a valid, current LPT company permit issued by the City under Chapter 16.40."
- PCC 16.40.030 J. - "Conduct Business means operating a for-hire or company, receiving money or other compensation from the use of a for-hire vehicle, causing or allowing another person to do the same, or advertising the same."
- PCC 16.40.030 W. - "Limited Passenger Transportation (LPT) means providing for-hire transportation services with non-motorized vehicles or motorized vehicles other than taxicabs. LPTs include, but are not limited to, horse-drawn carriages, pedicabs, executive sedans, limousines, shuttles and SATs."
- PCC 16.40.030 Y. - "Operate means driving a for-hire vehicle, using a for-hire vehicle to conduct a business, receiving money from the use of a for-hire vehicle, or causing or allowing another to do the same."
- PCC 16.40.030 HH. - "Private for-hire transportation means providing vehicular, horse-drawn carriage or pedicab transportation for compensation of any kind within the Portland City limits. However, it does not include transportation provided by a public or governmental entity, transportation that is regulated entirely by the state of Oregon or the federal government."

Based upon a review of the above referenced sections of PCC 16.40, the Hearings Officer finds that the City regulates the provision of limousine service within the City of Portland boundaries. The Hearings Officer finds that a person or entity conducting LPT business in the City of Portland must have a valid LPT permit. The Hearings Officer also finds that if a person or entity advertises limousine service (for compensation) to be conducted within the City of Portland that person or entity must have a current/valid LPT permit. The Hearings Officer also finds that a person or entity who refers limousine service to another person, if that service is to be conducted within the City of Portland, is considered to have conducted LPT business in the City of Portland. There is no evidence in the record that Bladow/Super Stretch has a LPT permit to operate a private for-hire transportation business in the City of Portland.

Referral of business to another person: Dufay testified, at the hearing, that on or about February 15, 2011, he telephoned Bladow/Super Stretch and spoke to an unidentified operator. Dufay stated that he requested a Super Stretch limousine for pickup on February 18, 2011 within the City of Portland boundaries. Dufay stated that the unidentified operator at Super Stretch offered limousine service for three hours at \$70 per hour with a 20% gratuity for the driver. Dufay stated the operator informed him that a \$100 deposit, via credit card, was required. Dufay stated that he emailed Super Stretch an "invalid VISA card number." Dufay stated that Bladow responded with two separate emails to Dufay. The first stated "sorry Frank we don't do pickups in the city of Portland, Oregon. We are based out of Ridgefield,

WA. Thanks" (Exhibits 8 and 17, page 1). The second email, to Dufay from Bladow, stated "sorry, we can't help you, your card is invalid, or else I would of sent your event to our Oregon permit subcontractor. Thanks" (Exhibits 9 and 17, page 2).

The City, through Butler, argued that the above-described interaction between Dufay and Bladow/Super Stretch constituted the operation of a private for-hire transportation business in the City of Portland. Butler argued that the second email (Exhibits 9 and 17, page 2) indicates that, had the VISA card Dufay proffered been valid, Bladow/Super Stretch would have referred Dufay's request for limousine service to another person/entity. Butler argued that such referral is a violation of PCC 16.40.130 through PCC 16.40.030 J. ("causing or allowing another person..." to operate a for-hire vehicle in Portland).

The Hearings Officer notes that the first email (Exhibits 8 and 17, page 1) is time stamped February 15, 2011 at 3:13 p.m. (Pacific Standard Time) and the second email is time stamped February 15, 2011 at 3:37 p.m. (Pacific Standard Time). The Hearings Officer finds that a reasonable interpretation of the first email is, if read literally, that Bladow/Super Stretch does not pick up passengers in the City of Portland. The Hearings Officer finds that the second email does not change Bladow/Super Stretch's statement that Bladow/Super Stretch does not pick up passengers in the City of Portland but rather expands on that concept by indicating that Bladow/Super Stretch does refer City of Portland limousine service pick ups to others ("our Oregon permit subcontractor" – Exhibits 9 and 17, page 2). The Hearings Officer interprets the second email (Exhibits 9 and 17, page 2) as communicating to Dufay that Bladow/Super Stretch will refer service requests for limousine pick ups in the City of Portland to other limousine providers. The Hearings Officer finds that such representation by Bladow/Super Stretch is within the definition of "conduct business" per PCC 16.40.030 J. and within the definition of "operate" per PCC 16.40.030 Y. The Hearings Officer also considered the hearing testimony of Bladow where he indicated the "subcontractor" referenced in Exhibits 9 and 17, page 2, is a permitted/licensed owner/operator by the name of Tyson Glawe ("Glawe"). The Hearings Officer notes that Bladow submitted Exhibits 19, 20, 21, and 22; all indicating Glawe is a licensed/certified/insured owner of a limousine and that Glawe's listing on "facebook" indicates he is "owner/operator at Tyson glawe LLC with Superstretch limousine." The Hearings Officer finds based upon the evidence in the record that Exhibits 9 and 17, page 2 do violate PCC 16.40.130 (via PCC 16.40.030 J. and Y.).

Advertising: Dufay testified that he discovered various advertisements for Bladow/Super Stretch. (Exhibits 5, 6, 13, 14 and 15 – exhibits 14 and 15 were submitted by the City at the hearing). Exhibit 5 is a copy of a Web page for Super Stretch and states "serving Oregon and Southwest Washington." Exhibit 6 is a "facebook" page with a reference to "Super Stretch Limousine-Portland, Oregon." Exhibit 13 is a "craigslist" page; Bladow denied that Exhibit 13 was his advertisement. Exhibit 14 is a "yellow pages" page indicting "Super Stretch Limousine & Wine Tours" with an address of "735 SW Stark St. Portland, Oregon." Exhibit 15 is a "twitter" account feed including statements such as "Location PORTLAND, OREGON" and the "Pink Hummer limo is still available, go in style, in Portland, Oregon." Bladow denied, during his hearing testimony, having authorized a listing indicating a 735 SW Stark address. Bladow denied any of the above-referenced advertisements was promoting City of Portland pick-ups.

The Hearings Officer finds that Exhibit 5 (Super Stretch webpage) does not advertise for-hire transportation services in the City of Portland. The Hearings Officer finds that Exhibit 6 ("facebook" page) does not directly advertise for-hire transportation services in the City of Portland; although a reasonable inference can be drawn from the statement "Super Stretch Limousine- Portland, Oregon" that

the business is located in Portland and may offer for-hire transportation services in the City of Portland. Bladow denied Exhibit 13 was his advertisement and therefore was not considered by the Hearings Officer in making this decision. Bladow testified that Exhibit 14, the “yellow pages” ad, did include an incorrect reference to a Portland address; he has attempted to have the copy changed by the “yellow pages” publisher. The Hearings Officer finds that Exhibit 14 should not be considered in making this decision. Exhibit 15, the “twitter” pages, includes a reference to Super Stretch having a “Location” in Portland. Exhibit 15 also includes statements indicating Super Stretch was located or operates in the City of Portland. Bladow, in his hearing testimony, acknowledged that Exhibit 15 is a copy of his “twitter” feed but denied that it advertised for-hire transportation services in the City of Portland. The Hearings Officer finds Exhibit 15, the Super Stretch Limo twitter page, does represent Super Stretch as both being located in Portland and also conducts business within the City of Portland.¹

Additional Issues Raised by Bladow/Super Stretch: Bladow indicated in the Appeal Letter no booking was ever taken for Dufay, that no specific vehicle was discussed with Dufay by the Super Stretch representative, no money was exchanged between Dufay and Bladow/Super Stretch and if a booking had been taken for Dufay that Super Stretch would have provided a vehicle “not subject to control by the City of Portland.” The Hearings Officer agrees with Bladow/Super Stretch that no booking was taken by Bladow/Super Stretch for Dufay on or about February 15, 2011. The Hearings Officer agrees with Bladow/Super Stretch that no money was exchanged between Dufay and Bladow/Super Stretch. The Hearings Officer finds that the alleged violations identified by the City in the Determination Letter did not require proof that a completed booking and/or exchange of money had occurred.

Bladow testified that the vehicle that would have provided service to Dufay, on or about February 18, 2011, would have been exempt from the City of Portland for-hire transportation laws/regulations. Bladow stated that his vehicles are DOT approved and therefore not subject to City of Portland regulation. Bladow provided no references to potentially relevant laws/rules to support such claim. Bladow provided no documentation that one or more of the Super Stretch vehicles was registered with the State of Oregon as a “bus;” being registered as a bus would have exempted the “bus” vehicle from City of Portland regulation.

Bladow also raised, in cursory fashion, the issue of Dufay recording an interstate telephone conversation with a Bladow/Super Stretch representative. The Hearings Officer finds that Bladow/Super Stretch provided no specific references to potentially relevant laws/rules that prohibit such recording. Bladow suggested, in a cursory fashion, that the Dufay “sting” violated state or federal law. The Hearings officer finds that Bladow/Super Stretch provided the Hearings Officer no specific references to potentially relevant laws/rules that prohibit a “sting” such as conducted by Dufay on or about February 15, 2011. Bladow alleged that Dufay’s offer to use an invalid credit card constituted the crime of “fraudulent use of a credit card.” The Hearings Officer finds that Bladow/Super Stretch provided no specific references to potentially relevant laws/rules related to improper use of credit cards. The Hearings Officer is not obligated to investigate possible laws that may have been broken when raised by an appellant. The Hearings Officer finds that the person or entity raising a violation of law must provide the Hearings Officer with sufficient evidence/information to allow the Hearings Officer to render a knowledgeable and informed decision. Bladow did not provide sufficient evidence/information with

¹ Exhibit 15 entries 10, 11, 12, and 15 are indicative of representations that Super Stretch is conducting business in the City of Portland.

respect to his claims related to (1) recording of telephone conversations, (2) the conduct of "sting" operations by a governmental entity, and (3) the use of credit cards.

Civil Penalties: The City, in the Determination Letter, assessed a civil penalty of \$1,000. Bladow/Super Stretch offered no testimony or argument as to whether the \$1,000 civil penalty was legally supportable, if the alleged violations were proven to have occurred. The Hearings Officer finds that the City, in the Determination Letter, referenced PCC 16.40.540 A., Civil Penalty Table, as legal support for the assessment of the \$1,000 civil penalty. The Hearings Officer finds that PCC 16.40.540 A. does provide that a violation of PCC 16.40.130 A (first offense) is \$1,000. The Hearings Officer finds the \$1,000 civil penalty is appropriate for a first violation of PCC 16.40.130 A.

Conclusion: The Hearings Officer finds that the Determination Letter alleged two violations. The Hearings Officer finds that Bladow/Super Stretch did not have, at all relevant times for this case, a LPT permit issued by the City of Portland. The Hearings Officer finds that on or about February 15th to February 18th, 2011 Bladow/Super Stretch did violate PCC 16.40.130 A. (via PCC 16.40.030 J. and Y.) by communicating to Dufay that Bladow/Super Stretch would provide service originating in the City of Portland by referring the service request to a Super Stretch subcontractor. The Hearings Officer finds that Bladow/Super Stretch did advertise (Exhibit 15) for-hire transportation services in the City of Portland in violation of PCC 16.40.130 A. (via PCC 16.40.030 J. and Y.) The Hearings Officer finds, based upon the evidence in the record, that Bladow/Super Stretch did violate PCC 16.40.130 A. as set forth in the Determination Letter. The Hearings Officer finds the \$1,000 civil penalty, as assessed in the Determination Letter, is legally supportable.

ORDER AND DETERMINATION:

1. The Determination Letter (Exhibit 4) is upheld; the Bladow/Super Stretch appeal is denied.
2. This Order has been mailed to the parties on April 22, 2011.
3. This Order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 22, 2011

GJF:rs/jeg

Enclosure



Gregory J) Frank, Hearings Officer

Exhibit #	Description	Submitted by	Disposition
1	Appeal form page 1	Butler, Kathleen	Received
1a	3/4/11 letter, Bladow to Frank Dufay	Butler, Kathleen	Received
2	Appeal form page 2	Butler, Kathleen	Received
3	3/18/11 Staff Report	Butler, Kathleen	Received
4	3/1/11 letter, Dufay to Bladow/dba Super Stretch Limousine LLC	Butler, Kathleen	Received
5	Super Stretch Limousine and Grape Adventure Winery Tour	Butler, Kathleen	Received
6	Super Stretch Limousine-Portland, Oregon	Butler, Kathleen	Received
7	E-mail from Dufay	Butler, Kathleen	Received
8	E-mail from CBLIM099@aol.com	Butler, Kathleen	Received
9	E-mail from CBLIM099@aol.com	Butler, Kathleen	Received
10	Certified Mail envelope	Butler, Kathleen	Received
11	Mailing List	Hearings Office	Received
12	Hearing Notice	Hearings Office	Received
13	Craigslist printout	Butler, Kathleen	Received
14	Online yellow pages printout	Butler, Kathleen	Received
15	Twitter printout	Butler, Kathleen	Received
16	Chapter 16.40 - Private For-Hire Transportation Regulations	Butler, Kathleen	Received
17	2/15/11 e-mails	Bladow, Craig	Received
18	Super Stretch Limousine and Grape Adventure Winery Tours printout	Bladow, Craig	Received
19	UTC Certificated Charter and Excursion Passenger Carriers Operating under Chapter....	Bladow, Craig	Received
20	Washington State Department of Licensing Vehicle Registration Certificate	Bladow, Craig	Received
21	Insurance Identification Card	Bladow, Craig	Received
22	Facebook page - Tyson Glawe	Bladow, Craig	Received