

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

In the matter of:

PATHE WAYE TRANSPORTATION LLC
Unregistered.

ENF-23-020021

Respondent.

Issued and entered
This 2nd day of March 2023

NOTICE AND ORDER TO CEASE AND DESIST

The Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau (the “Department”), under its statutory authority and responsibility to administer and enforce the Limousine, Taxicab, and Transportation Network Company Act, 2016 PA 345,¹ MCL 257.2101 *et seq.* (the “Act”), orders Pathe Waye Transportation LLC (“Respondent”), to stop violating the Act. Specifically, Respondent is ordered to cease and desist from engaging in the business of either a taxicab carrier or limousine carrier until it obtains either a taxicab carrier or limousine carrier registration from the Department. Respondent is also notified of the opportunity to request a hearing in this matter.

¹ The requirements of this Act became effective March 21, 2017, rendering for-hire passenger vehicles carrying eight passengers or less previously regulated by the Michigan Department of Transportation (MDOT) under the Motor Bus Transportation Act, MCL 474.101 *et seq.*, subject to the requirements of the new Limousine, Taxicab, and Transportation Network Company Act administered by the Department of Licensing and Regulatory Affairs. MDOT continues to administer the Motor Bus Transportation Act, which regulates for-hire passenger vehicles carrying nine or more passengers.

I. BACKGROUND

A. Respondent

1. Respondent has never held a registration as either a limousine carrier or taxicab carrier under the Act. Attached as Exhibit 1 is a certificate of Respondent's registration status under the Act.
2. According to its Articles of Organization on file with the Department's Corporations Division, Audrey Humphrey and Kevin Rudolph organized Respondent, Pathe Waye Transportation LLC (Entity ID# 802413062), on February 5, 2020. Respondent has a registered office address on file with the Department's Corporations Division of 14248 Mark Twain, Detroit, Michigan 48227. Respondent's Resident Agent is Audrey Humphrey, whose mailing address is the same as the registered office address. Attached as Exhibit 2 is a certified copy of Respondent's Articles of Organization.

B. Findings of Fact

3. On January 27, 2023,² the Department received a statement of complaint filed by Detective Valerie Ferrera with the Waterford Township Police Department. Detective Ferrera investigated a complaint that a nonverbal minor with special needs was alleged to have been physically abused by a driver employed by Respondent (the "driver").³ The driver transported the child to and from school from the child's home between May 25, 2022, and May 31, 2022. Attached as Exhibit 3 is the statement of complaint.
4. On January 30, 2023, Department staff interviewed Waterford School District's transportation supervisor. According to the transportation supervisor, Waterford School District contracted with Respondent prior to the 2021-2022 school year to provide transportation services for special needs students. The District dealt only with a "James Lee" on behalf of Respondent. In May of 2022, Respondent was providing transportation services for approximately six students. However, after Detective Ferrera advised the District not to use Respondent to provide transportation services any longer, as of January 30, 2023, the District only had one family that still used Respondent to provide transportation services for their child at the family's specific request. As of January 30, 2023, the District relied upon the transportation providers' representations that they conducted their own background checks of their drivers, but that process may change going forward due to this incident.

² Detective Ferrera filed the Statement of Complaint with the Department of Attorney General on September 21, 2022, which that Department forwarded to the Department in January 2023.

³ The Township prosecutor declined to request a warrant during the criminal investigation due to "insufficient evidence available to proceed with prosecution."

5. It is unknown whether Respondent conducted an initial or annual criminal background and sex offender registry check or driving history check of the driver or any of its other drivers, as required under section 7 of the Act, MCL 257.2107.
6. On January 30, 2023, Department staff visited Respondent's registered office address on file with the Department's Corporations Division and located a house on a residential street. There was no visible signage with Respondent's name on the house, on any vehicles, or in front of the house. Department staff also visited Respondent's prior registered office mailing address of 6751 Sadie Lane, Van Buren Township, Michigan 48111 and found a residential street with houses, no visible signage with Respondent's name on any vehicles, or on or in front of any houses.
7. On January 31, 2023, Department staff interviewed the mother of the minor child. She indicated she was contacted by James Randolph⁴ who claimed he was the "boss of" Respondent, that Waterford School District called Respondent to provide transportation services, and that one of Respondent's drivers would pick up her child and take them to and from school.
8. The minor child's mother further indicated that the driver drove an off-white Ford Escape, which seats eight or less passengers, with rust on the passenger-side rear. The vehicle lacked any visible signs with Respondent's name displayed on it. She also recalled that someone on behalf of Respondent gave her paperwork with Respondent's name on it to sign with her child's name filled in. The child's mother stopped using Respondent to transport her child to school after discovering bruising on the child's body on two different occasions in the brief period in which the driver on behalf of Respondent provided transportation services between May 25, 2022, and May 31, 2022.
9. On February 2, 2023, Department staff interviewed the driver. She represented that she no longer drives for Respondent and denied that she had anything to do with the allegations of physical abuse. But she confirmed that she drove for Respondent for a period of about a month and a half and started a little after the spring of 2022 after responding to Respondent's job posting seeking drivers. The driver confirmed she used her personal vehicle to provide transportation services on behalf of Respondent, including for the minor child. She indicated she is unfamiliar with any of the individuals associated with Respondent and solely communicated with Respondent via text messages after her initial interview with a gentleman on behalf of Respondent.
10. On February 7, 2023, Department staff unsuccessfully attempted to interview Respondent's Resident Agent, Audrey Humphrey ("Humphrey"), by phone and text message before she cut off contact with the Department. Before that occurred, she

⁴ The Waterford Township Police Report and the Department's investigation revealed that this individual who uses a common telephone number may use several different aliases, including James Lee, James Rudolph, James Randolph, Kevin Rudolph, Kevin Randolph, and Lee Rudolph. An individual interviewed by the detective on behalf of Respondent named "James" indicated "he was just a supervisor" but identified Audrey Humphrey as Respondent's owner. He also denied the allegations of abuse claiming them to be impossible.

confirmed that the driver drove for Respondent and transported the minor child to and from school.

11. To date, the Department has not received an application from Respondent to obtain a registration under the Act, and it appears that Respondent is continuing to provide transportation services for at least one child through its contract with the Waterford School District without being registered under the Act.

II. RELEVANT STATUTORY PROVISIONS

12. Section 4(1) of the Act, MCL 257.2104(1), provides the following:

A limousine carrier, taxicab carrier, or transportation network company shall not operate in this state without first having registered with the department under this act.

13. Section 2 of the Act, MCL 257.2102, provides the following definitions as used in the Act:

(d) "Limousine" means a self-propelled motor vehicle used in the carrying of passengers and the baggage of the passengers for hire with a seating capacity of 8 passengers or fewer, including the driver. Limousine does not include a commercial vehicle

(e) "Limousine carrier" a person who, either directly or through any device, dispatch system, or arrangement, holds himself or herself out to the public as willing to transport passengers for hire by limousine.

* * *

(g) "Person" means as an individual, sole proprietorship, corporation, association, or other legal entity.

* * *

(i) "Taxicab" means a motor vehicle with a seating capacity of 8 passengers or fewer, including the driver, that is equipped with a roof light and that carries passengers for a fee usually determined by the distance traveled. Taxicab does not include a commercial vehicle.

(j) "Taxicab carrier" means a person who, either directly or through any device, dispatch system, or arrangement, holds himself or herself out to the public as willing to transport passengers for hire by taxicab.

14. Section 49 of the Act, MCL 257.2149, provides the following:

(1) A limousine carrier, taxicab carrier, or transportation network company, or an officer or agent of a limousine carrier, taxicab carrier, or transportation network company who requires or knowingly permits a driver to drive or operate a limousine, taxicab, or personal vehicle in violation of this act, or a rule promulgated under this act, is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 per violation or imprisonment for not more than 90 days, or both.

(2) In addition to the fine authorized by this section, the department may assess a fine against a person who violates this act that covers the actual cost to the department of the investigation and enforcement of the violation, including attorney fees.

(3) A proceeding held under this act shall be held under chapter 4 of the administrative procedures act of 1969 [MCL 24.271 *et seq.*]

15. Section 51 of the Act, MCL 257.2151, provides the following:

All of the following apply to a person that violates this act or rules or an order promulgated or issued under this act:

(a) The person is subject to denial of a registration or renewal of a registration.

(b) The attorney general or the proper prosecuting attorney may institute appropriate criminal proceedings under this Act against the person with or without a reference from the department.

(c) The department or any other person, to enforce compliance with this act, may bring an action in a circuit court in any county in which the limousine carrier, taxicab carrier, or transportation network company has solicited or sold its services, whether or not that person purchased or used the limousine carrier's, taxicab carrier's, or transportation network company's services or is personally aggrieved by a violation of this act. The court may award damages, issue equitable orders in accordance with the Michigan court rules to restrain conduct in violation of this act, and award reasonable attorney fees and costs to a prevailing party.

16. Section 53 of the Act, MCL 257.2153, provides the following:

(1) The director of the department or his or her designee may order a limousine carrier, taxicab carrier, or transportation network company to cease and desist from a violation of this act, a rule promulgated under this act, or an order issued under this act.

(2) A limousine carrier, taxicab carrier, or transportation network company that receives an order to cease and desist described in subsection (1) may request a hearing before the department if the limousine carrier, taxicab carrier, or transportation network company files a written request for a hearing no later than 30 days after the effective date of the cease and desist order.

(3) If a limousine carrier, taxicab carrier, or transportation network company violates an order to cease and desist issued under subsection (1), the attorney general may apply to a court of competent jurisdiction to restrain and enjoin, either temporarily or permanently, that limousine carrier, taxicab carrier, or transportation network company from further violating the order to cease and desist.

III. CONCLUSIONS OF LAW

Respondent operated and continues to operate as a limousine carrier or a taxicab carrier in this state without obtaining a registration from the Department under the Act, contrary to MCL 257.2104(1).

IV. ORDER

IT IS THEREFORE ORDERED, under MCL 257.2153(1), that:

- A. Respondent must immediately cease and desist from violating the Act, as set forth above, by ceasing to operate as a limousine carrier or as a taxicab carrier in this state until it obtains a certificate of registration from the Department.
- B. Within 60 days of the date this Order becomes final, Respondent must provide the Department at the address indicated in paragraph VI.B. or via email at LARA-CSCL-Order-Monitoring@michigan.gov, one of the following:
 - 1) Documentary proof to the satisfaction of the Department that it obtained a certificate of registration under the Act; OR
 - 2) Documentary proof to the satisfaction of the Department in the form of a notarized statement signed by an authorized representative on behalf of Respondent indicating that Pathe Waye Transportation LLC is closed for business and no longer operating as a taxicab carrier or limousine carrier in this state nor is it holding itself out to the public as willing to transport Michigan-based passengers for hire by taxicab or limousine or pursuant to any contract(s) with any Michigan school district(s).
- C. The Department, under MCL 257.2149(2), intends to recoup the costs of its investigation and enforcement of this matter by way of a **FINE of \$895.36** against Respondent, plus any additional costs incurred by the Department after the issuance

of this Order, if any, payable within sixty (60) days of the date that this Order becomes final.

- D. This ORDER IS IMMEDIATELY EFFECTIVE.
- E. Under MCL 257.2149(1), a taxicab carrier or limousine carrier who requires or knowingly permits a driver to drive or operate a taxicab or limousine in violation of the Act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 per violation or imprisonment for not more than ninety (90) days, or both. **ACCORDINGLY, FAILURE TO COMPLY WITH THIS ORDER MAY SUBJECT RESPONDENT TO THESE ADDITIONAL CRIMINAL SANCTIONS, FINES, AND/OR PENALTIES.** A referral may be made to the appropriate law enforcement authority at any time after the issuance of this Order.
- F. Under MCL 257.2151(a), a person who violates the Act, rules promulgated under the Act, or an order issued under the Act is subject to denial of a registration or renewal of a registration under the Act.
- G. Under MCL 257.2151(c), the Department may bring an action in a circuit court in which Respondent solicited or sold its services to enforce compliance with the Act. The court may award damages, issue equitable orders to restrain violations of the Act, and award reasonable attorney fees and costs to a prevailing party. The Department retains the right to pursue a civil action against Respondent under MCL 257.2151(c) if it determines that such action is in the public interest.
- H. Under MCL 257.2153(3), if Respondent violates this Order, the attorney general may apply to a court of competent jurisdiction to restrain and enjoin Respondent from further violating this Order.

V. NOTICE OF OPPORTUNITY FOR HEARING

Respondent has thirty (30) days beginning with the first day after the date of service of this **ORDER** to submit a written request to the Department asking that this matter be scheduled for a hearing. If the Department receives a written request in a timely manner, the Department will schedule a hearing. The written request for a hearing must be addressed by mail, email, or fax to:

Corporations, Securities & Commercial Licensing Bureau
Regulatory Compliance Division
P.O. Box 30018
Lansing, MI 48909
Email: CSCL-FOIA@michigan.gov
Fax: (517) 763-0040

VI. ORDER FINAL ABSENT HEARING REQUEST

- A. Respondent’s failure to submit a written request for a hearing to the Department within 30 days after the service date of this **ORDER** shall result in this Order becoming a **FINAL ORDER** by operation of law. The **FINAL ORDER** includes the imposition of the fine described in paragraph IV.C. and the submission of the documentation described in paragraph IV.B. The fine and documentation are due to the department within 60 days after the date this order becomes final:

\$895.36 fine – imposed against Respondent, under MCL
257.2149(2).

- B. If the ADMINISTRATIVE FINE is paid by check or money order, payment must be payable to the STATE OF MICHIGAN, contain identifying information (e.g., Respondent(s) name(s) and ENF-23-020021), and be mailed to the following address:

Corporations, Securities & Commercial Licensing Bureau
Final Order Monitoring – Securities & Audit Division
P.O. Box 30018
Lansing, MI 48909

Information about how to open an online account to submit license applications or payments by debit or credit card or how to use an existing online account to make a fine or audit costs payment to the Department may be found by visiting www.mi.gov/MiCLEAR. All other communications and documentation may be directed to the Department’s Final Order Monitoring area at the above address or by email to LARA-CSCL-Order-Monitoring@michigan.gov.

- C. Failure to pay the fine within six (6) months after it becomes overdue may result in the referral of the fine to the Michigan Department of Treasury for collection action against Respondent.
- D. Failure to timely comply with all terms of this Order will also result in the denial of future applications for registration or renewal of a registration submitted by Respondent under the Act, until Respondent fully complies with the Order, consistent with MCL 257.2104(5)(e) and 257.2151(a).

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

/s/ Linda Clegg
Linda Clegg, Director
Corporations, Securities & Commercial Licensing
Bureau

02/28/2023
Date Signed