

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

In the matter of:

Complaint No. 343325

IMA TAXI SERVICE
BERNIE CLARKSON, OWNER
Taxicab Carrier Registration No. 58-02-000163

Respondent.

Issued and entered
This 2nd day of June, 2021

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, MCL 257.2101 *et seq.* (the “Act”), orders IMA Taxi Service, Bernie Clarkson, Owner (“Respondent”), to stop violating the Act by engaging in the business of a taxicab carrier without a current registration issued by the Department and failing to maintain the insurance coverage required by section 19 of the Act, MCL 257.2119. Respondent is also notified of the opportunity to request a hearing in this matter.

I. BACKGROUND

A. Respondent

1. Respondent has an address on file with the Department’s Licensing Division of 6330 Goose Lake Rd., Indian River, Michigan 49749. Respondent has, at some times relevant to this Order, been registered as a taxicab carrier under the Act. Respondent’s registration lapsed due to expiration on August 31, 2020, and it has no pending application on file with the Department. Attached as Exhibit 1 is a certificate of Respondent’s registration status under the Act.

B. Disciplinary History

2. On December 10, 2018, the Department issued a Notice and Order to Cease and Desist (“Cease and Desist Order”) against Respondent for operating a taxicab carrier without first being registered with the Department. Respondent resolved the Cease and Desist Order by Consent Order, dated April 19, 2019, admitting to the unregistered conduct and agreeing to pay a fine of \$175.09. Attached as Exhibit 2 is the 2018 Cease and Desist Order.

C. Findings of Fact

3. On January 2, 2019, Respondent first became registered as a taxicab carrier under the Act.
4. On August 26, 2019, Respondent submitted a Certificate of Liability Insurance to the Department in compliance with section 21 of the Act, MCL 257.2121. It had an expiration date of August 6, 2020. Attached as Exhibit 3 is the 2019 Certificate of Liability Insurance.
5. On November 23, 2019, Respondent materially reduced the scope of its insurance coverage without notifying the Department, as required by section 5 of the Act, MCL 257.2105. Attached as Exhibit 4 is documentation of the policy cancellation.
6. On August 31, 2020, Respondent’s taxicab carrier registration lapsed due to expiration.
7. On September 24, 2020, the Department received a statement of complaint from K.B. alleging Respondent was operating as a taxicab carrier after its registration lapsed and expired. Attached as Exhibit 5 is the statement of complaint.
8. On October 6, 2020, K.B. provided photographs to the Department depicting an unmarked vehicle without a license plate at Pellston Airport that K.B. observed Respondent’s owner, Bernie Clarkston, using as a taxicab, and one photograph of a white van with a taxi light on top and “IMA Taxi Service” on the back side window, along with a telephone number and Respondent’s taxicab carrier registration number. Attached as Exhibit 6 are the photographs provided by K.B.
9. On November 13, 2020, Department staff called Respondent’s telephone number and asked if she had reached IMA Taxi Service. Respondent’s owner, Bernie Clarkson, confirmed that she had and identified himself by name. When Department staff identified herself and asked if Respondent was still operating as a taxicab carrier, Mr. Clarkson denied that it was still operating.
10. On May 5, 2021, Department staff conducted an internet search and found an active website for IMA Taxi Service (ima-taxi.com) that displayed a photograph of a white van that appeared identical to the white van depicted in the photographs provided by K.B. Department staff also found a Google review for Respondent dated “2 weeks ago.” Attached as Exhibit 7 are the results of the internet search.

11. To date, the Department has not received an application from Respondent to obtain a registration under the Act, nor does it appear that Respondent ceased operations as a taxicab carrier; but rather, continues to operate without the required registration and insurance coverage, contrary to MCL 257.2104(1) and MCL 257.2121.

II. RELEVANT STATUTORY PROVISIONS

12. MCL 257.2104 provides the following, in relevant subparts:

(5) To obtain a registration under this act, a limousine carrier, taxicab carrier, or transportation network company shall submit an application, on a form developed by the department, to the department that includes all of the following information:

(a) Proof that the applicant has satisfied the insurance requirements of this act.

* * *

(e) If applicable, proof that the applicant has satisfied any penalties or conditions imposed by disciplinary action in this state.

13. MCL 257.2102 provides the following definitions as used in the Act:

(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. MCL 257.2104(1) provides that a "taxicab carrier . . . shall not operate in this state without first having registered with the department under this act."

15. MCL 257.2105 provides the following, in part:

A limousine carrier, taxicab carrier, or transportation network company shall disclose to the department on an annual basis and in the event of a material reduction in insurance coverage maintained by the limousine carrier, taxicab carrier, or transportation network company on behalf of each driver providing transportation services for that limousine carrier, taxicab carrier, or transportation network company all of the following information:

(a) The automobile insurance coverage, including the types of coverage and limits for each type of coverage, that the limousine carrier, taxicab carrier, or transportation network company maintains on behalf of each driver while he or she

operates a limousine, operates a taxicab, or uses a personal vehicle in connection with a transportation network company's digital network.

16. MCL 257.2117 provides the following:

(1) If the Insurance Coverage required under section 19, 21, or 23 is canceled for any reason, or if, after an audit, the department determines that a registrant's violation of this act poses a threat to the public health, safety, or welfare, the department shall issue an order summarily suspending the registration issued to that limousine carrier, taxicab carrier, or transportation network company, based on an affidavit by an individual who is family with the facts set forth in the affidavit, or if appropriate, based on an affidavit made on information and belief that an imminent threat to the public health, safety, or welfare exists.

17. MCL 257.2121 provides the following:

A taxicab carrier shall acquire all of the following insurance coverage for acts or omissions of the applicant as a taxicab carrier:

(a) Bodily injury and property damage liability insurance with a minimum combined single limit of \$300,000.00 for all persons injured or for property damage.

(b) Personal protection insurance and property protection insurance as required by chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179.

18. 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.*]

19. 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.

20. 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

21. Respondent engaged in activity regulated by the Act by providing transportation services by taxicab to passengers for hire and for a fee without maintaining a registration with the Department under the Act, contrary to MCL 257.2104(1)

22. Respondent failed to notify the Department of a material reduction in insurance coverage, contrary to MCL 257.2105.

IV. ORDER

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

A. Respondent must immediately stop violating the Act, as set forth above, by ceasing to hold itself out to the public as willing to transport passengers for hire by taxicab in this state until it obtains a certificate of registration from the Department and, in doing so, obtains the insurance coverage required under the Act.

- 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-Securities-Audit@michigan.gov, one of the following:
- a. Documentary proof to the satisfaction of the Department that it filed an application under the Act with the Department's Licensing Division that includes the insurance coverage required under MCL 257.2121; or
 - b. Documentary proof to the satisfaction of the Department in the form of a notarized statement signed by Respondent's owner and sole proprietor, Bernie Clarkson, that IMA Taxi Service is closed for business and no longer offering transportation services as a taxicab carrier or limousine carrier to the public for hire and for a fee.
- 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 \$593.31** against Respondent, plus any additional costs incurred by the Department after the issuance of this Order, if any, payable within 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 who requires or knowingly permits a driver to drive or operate a taxicab 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 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 or email to:

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

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:

\$593.31 fine – imposed against Respondent's owner and sole proprietor, Bernie Clarkston, under MCL 257.2149(2).

B. The FINE must be made payable to the STATE OF MICHIGAN, by check or money order with Complaint No. 343325 clearly indicated on the check or money order, and mailed to the following address:

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

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's owner and sole proprietor, Bernie Clarkston.

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 or Bernie Clarkson 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



Linda Clegg, Director
Corporations, Securities & Commercial Licensing
Bureau

June 2, 2021
Date