

AUG 11 1995

Decision 95-08-018 August 11, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations and practices of Jaime L. Atilano, doing business as Tri Star Limousine, an individual Respondent.

1.94-09-006

(Filed September 1, 1994)

ORIGINAL

OPINION

Findings of Fact

The stipulation is reasonable, consistent with the law

On September 1, 1994, the Commission instituted this investigation (OII) for the purpose of determining whether respondent had violated certain regulations of the Commission as particularly set forth in the OII.

On March 27, 1995, the attorney representing the Commission's Safety and Enforcement (S&E) Division in this proceeding filed a motion for adoption of a document entitled "STIPULATION FOR SETTLEMENT" (stipulation). The stipulation is intended to resolve all of the issues raised in the OII. A copy of the stipulation is attached to the motion and this decision as Appendix A. The signatories to the settlement are Jamie L. Atilano, the respondent, and William R. Schulte, Director of the Commission's S&E Division.

The stipulation places respondent on probation for 18 months during which time respondent will provide monthly reports to the S&E Division concerning his compliance with Commission regulations. Specifically, respondent will provide S&E Division with a monthly list of drivers and driver's license numbers, full evidence of compliance with the Department of Motor Vehicles' pull notice program, and monthly waybills and income and expense statements. Should the Commission approve such application, which

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ALJ/FJO/PCG

ALJ/FJO/PCG

The stipulation also provides that respondent pay a fine in the amount of \$3,000. The stipulation also provides that if respondent violates the terms of the stipulation during the probationary period, the Commission may reopen the proceeding to reconsider the terms of the stipulation and adopt findings of violations and order sanctions for past, present, and future acts or omissions with respect to respondent's performance as a charter party carrier.

Findings of Fact

H O I N I P O

1. The stipulation is reasonable, consistent with the law, and in the public interest.

2. The stipulation is uncontested.

Conclusions of Law

1. The motion for adoption of the stipulation should be granted.

2. The stipulation should be adopted.

Since this matter is resolved by a stipulation, this order should become effective immediately.

O R D E R

1. The motion for adoption of the Stipulation for Settlement (stipulation) is granted.

2. The stipulation appended hereto as Appendix A is adopted.

3. Jaime L. Atilano shall pay to the Commission a fine of \$3,000, which shall be payable in 17 installments of \$140, and a final installment of \$620 to be paid monthly, on or before the first day of the month, after the effective date of this order. During the 60 days prior to the completion of probation, respondent may apply to the Commission to be excused from the payment of \$500 of the final installment. Should the Commission approve such application, which

S&E will not oppose if respondent has fully complied with the terms of the settlement, the final installment will be reduced to \$120. No interest shall be due with respect to any installment, provided timely payments are made.

4. Respondent is placed on probation for 18 months. Should respondent not comply with this decision, including the terms of the stipulation appended hereto, or Commission regulations during the probation period, this proceeding may be reopened to determine whether further sanctions should be imposed.

5. This docket is closed, subject to being reopened as set forth above.

This order is effective today.

Dated August 11, 1995, at San Francisco, California.

DANIEL Wm. FESSLER  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

*Wealey Franklin*  
Acting Executive Director

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations and practices of Jaime L. Atilano, doing business as Tri Star Limousine, an individual Respondent  
I.94-09-006 (Filed September 1, 1994)

MOTION OF THE SAFETY AND ENFORCEMENT DIVISION FOR ADOPTION OF THE PROPOSED STIPULATION FOR SETTLEMENT

Pursuant to Rule 51 of the Commission's Rules of Practice and Procedure, the Safety and Enforcement Division (S&E) respectfully requests that the Commission adopt the attached proposed Stipulation for Settlement (Settlement; see Appendix A). The Settlement is entered into by the Safety and Enforcement Division of the California Public Utilities Commission (Commission) and Mr. Jaime L. Atilano, owner of Tri Star Limousine, and resolves all issues raised in the above-entitled matter.

I. PROCEDURAL BACKGROUND

The Commission regulates charter party carriers of passengers pursuant to its authority under Article XII of the California Constitution, Public Utilities Code (P.U. Code) Sections 5351 et. seq., and General Order (G.O.) 157-B. Tri Star Limousine conducts such operations under its charter party operating authority, TCP 7348P. On September 1, 1994, the Commission issued an Order instituting investigation (OII) into the charter party permit of Jaime L. Atilano, doing business as Tri Star Limousine. The OII sought to determine whether:

- a. Tri Star Limousine violated Section 5379 of the California Public Utilities Code by conducting for-hire transportation during the suspension of its charter party permit;

b. Tri Star Limousine violated Section 5378.1 of the California Public Utilities Code by engaging employees without obtaining workers' compensation insurance coverage and without filing evidence of such coverage with the Commission;

c. Tri Star Limousine violated Part 5.02 of General Order 157-B, by failing to enroll in the Department of Motor Vehicles' (DMV's) Pull Notice Program;

d. Tri Star Limousine should pay a fine of \$5,000 pursuant to Public Utilities Code Sections 5378 and 5415 as well as the fee established pursuant to Public Utilities Code Sections 421 and 5387.5.

**II. STIPULATION FOR SETTLEMENT**

Pursuant to Rule 21 of the Commission's Rules of Practice

The parties to the Settlement believe that the terms of the Settlement represent a fair and equitable resolution of the issues presented in I.94-09-006.

The Settlement places Tri Star Limousine on an eighteen month probation during which time Tri Star Limousine will provide the Safety and Enforcement Division with monthly reports on its compliance with Commission regulations. Specifically, Tri Star Limousine will provide S&E with a monthly list of drivers and drivers' license numbers, evidence of compliance with the DMV Pull Notice Program, and monthly waybills and income and expense statements.

Tri Star Limousine also agrees to pay a fine and to comply with General Order 157-B requirements, with the DMV Pull Notice requirements, and with P.U. Code Section 5378.1 workers' compensation requirements.

The Settlement further provides that if Tri Star Limousine violates the terms of the settlement during the probationary period, the Commission may reopen the proceeding to reconsider the settlement terms and can adopt findings of violations and order sanctions for past, present or future acts or omissions with respect to Tri Star Limousine's performance as a charter party carrier.

Tri Star Limousine violated Section 5378 of the California Public Utilities Code by conducting for-hire transportation during the suspension of its charter party permit;

III. CONCLUSION

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
The Safety and Enforcement Division believes that the

proposed Settlement constitutes a reasonable resolution of this  
investigatory proceeding, is in the public interest, and is  
consistent with the law. The parties to this proceeding entered  
into the Settlement to avoid the expense, time, and uncertainty  
of litigation.

The Safety and Enforcement Division respectfully requests  
that the Commission adopt and approve the attached Settlement.

STIPULATION FOR SETTLEMENT

Respectfully submitted,

Agreement of Settlement (Settlement) Agreement of Settlement (Settlement) Agreement of Settlement (Settlement)

by and between the Safety and Enforcement Division and the California Public Utilities

Commission (Safety and Enforcement Division) and Tri Star

and Enforcement Division shall be the date of its approval and adoption by the California Public

Utilities Commission.

California Public Utilities  
Commission

505 Van Ness Avenue  
San Francisco, CA 94102

(415) 703-2014

Dated: March 27, 1995

operations under its charter party operating authority, and general order (G.O.) 157. Tri Star conducts such  
pursuant to its authority under Article XII of the California  
Constitution, Public Utilities Code (P.U. Code) Sections 2351 et

On September 1, 1994, the Commission issued an Order  
Instituting Investigation (OI) into the charter party permit of  
Jaine L. Allano, doing business as Tri Star Licentiate. The OI  
sought to determine the following:

- (a) Conducted For-Hire Operations During Permit Suspension:  
Whether Tri Star Licentiate violated Section 2379 of the  
California Public Utilities Code by conducting for-hire  
transportation during the suspension of its charter  
party permit;

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Safety and Enforcement Division believes that the proposed settlement concerning the investigation on the Commission's own motion into the operations and practices of Jaime L. Atilano, doing business as Tri Star Limousine, an individual, is in the best interests of the public. (Filed September 1, 1994)

The Safety and Enforcement Division respectfully requests that the Commission adopt and approve the attached settlement.

STIPULATION FOR SETTLEMENT

This Stipulation for Settlement (Settlement Agreement or Agreement) is entered into by and between the Safety and Enforcement Division of the California Public Utilities Commission, (Safety and Enforcement Division) and Tri Star Limousine. The effective date of this Agreement shall be the date of its approval and adoption by the California Public Utilities Commission (Commission).

The Commission regulates charter party carrier of passengers pursuant to its authority under Article XII of the California Constitution, Public Utilities Code (P.U. Code) Sections 5351 et. seq., and General Order (G.O.) 157. Tri Star conducts such operations under its charter party operating authority, TCP 7348P.

On September 1, 1994, the Commission issued an Order Instituting Investigation (OII) into the charter party permit of Jaime L. Atilano, doing business as Tri Star Limousine. The OII sought to determine the following:

- (a) Conducted For-Hire Operations During Permit Suspension: Whether Tri Star Limousine violated Section 5379 of the California Public Utilities Code by conducting for-hire transportation during the suspension of its charter party permit;

A APPENDIX A

(b) Failed To Obtain Workers' Compensation Insurance for Employees and File Evidence of Coverage With the Commission: Whether Tri Star Limousine violated

Section 5378.1 of the California Public Utilities Code by engaging employees without obtaining workers' compensation insurance coverage and without filing evidence of such coverage with the Commission;

(c) Failed to Participate in the Department of Motor Vehicle Pull Notice Program: Whether Tri Star violated

Part 5.02 of General Order 157-B, by failing to enroll in the Department of Motor Vehicles (DMV) Pull Notice Program.

THE PARTIES TO THIS PROCEEDING now pending before the Public Utilities Commission, desiring to avoid the expense, inconvenience, and uncertainty attendant to litigation of the issues in dispute between them, have agreed upon a Settlement of the issues raised in the OII and submit this Settlement Agreement to the Public Utilities Commission for approval and adoption as its final disposition of the matters herein. The parties to this Agreement are: the California Public Utilities Commission's Safety and Enforcement Division and Tri Star Limousine, Mr. Jaime L. Atilano.

In order to effectuate a Settlement of this matter before the Commission, Tri Star Limousine, Mr. Jamie L. Atilano shall not contest the above allegations. Jamie L. Atilano agrees that CPUC Staff can, in any future enforcement or licensing proceeding involving either Tri Star Limousine or Jamie L. Atilano, introduce the alleged violations and that violations will not be contested. The previous months' operations. The first report shall be due the month following the Commission's adoption of this Agreement. Tri Star Limousine shall continue to provide these reports until completion of probation.



A APPENDIX A

NOW, THEREFORE, in consideration for the mutual promises set forth herein, the parties agree as follows:

AGREEMENT  
Section 1808.1 of the California Public Utilities Code

1. Probation, Tri Star Limousine shall serve an eighteen month probation which shall begin on the date this Agreement is approved and adopted by the Commission. During probation, Tri Star Limousine is subject to the following terms and conditions:

(a) Progress Reports: During probation, Tri Star Limousine shall prepare and present to the Safety and Enforcement Division monthly reports of its compliance with Commission regulations. The monthly report shall include:

- (1) a list of the drivers engaged by Tri Star Limousine for the prior month;
- (2) the drivers license number of each driver listed in (1) above;
- (3) evidence of compliance with Section 1808.1 of the Vehicle Code which would include the Full Notice and DMV printouts;

(4) waybills for the prior month;

(5) income and expense statements for the prior month.

The reports shall be due on the 15th of each month for the previous months' operations. The first report shall be due the month following the Commission's adoption of this Agreement. Tri Star Limousine shall continue to provide these reports until completion of probation.

(b) Employment Development Department (EDD) Form DE3.

Tri Star Limousine shall provide the Safety and Enforcement Division with copies of the quarterly EDD Form DE3 filed with the EDD. Tri Star shall provide these reports within 15 days of filing them with the EDD and shall continue to provide the reports until completion of probation.

(c) Further Proceedings. In the event that Tri Star

Limousine violates the terms of this Agreement, the Commission may reopen this proceeding to reconsider the terms of this Agreement, including, without limitation, adopting findings of violations of applicable rules and regulations and those sanctions which have been or should be imposed for any past, present, or future acts or omissions with respect to Tri Star Limousine's performance of its charter party operations.

2. Monetary Payment.

Tri Star Limousine agrees to pay a total monetary payment of \$3,000 with \$500 held in forbearance unless Tri Star Limousine violates the terms or conditions of this Agreement. Tri Star Limousine agrees to pay this amount in eighteen installments as follows: The first installment of \$140 shall be due on or before the first of the month following the Commission adoption of the Agreement. The remaining installments shall be due on or before the first of each subsequent month for the next seventeen months. Each installment shall be in the amount of \$140 except the eighteenth installment which shall be in the amount of \$620. During the sixty days prior to the completion of probation, Tri Star Limousine may apply to the Commission to be excused from \$500 of the eighteenth installment making the amount due \$120. In the event that Tri Star Limousine has fully complied with the terms of this Agreement, the Safety and Enforcement Division will not oppose this application. No interest is payable with respect to the Settlement amount.

**3. Driver Retention/DWI Pull Notice Program.** Tri Star Limousine further agrees not to allow any unlicensed driver to operate any company vehicle and shall also immediately enroll in the Department of Motor Vehicle's Driver Pull-Notice Program and shall forward the verification of enrollment certification to the Safety and Enforcement Division within 30 days of the effective date of this Agreement.

**4. Workers' Compensation Coverage Requirements.** Tri Star Limousine will comply with the provisions of P.U. Code Sect. 5378.1 which require it to file with the Commission evidence of workers' compensation coverage for its employees.

**5. Compliance With General Order 157-B.** Tri Star Limousine will comply with the provisions of General Order 157-B.

**6. Tri Star Limousine agrees that immediately upon the Commission adoption of this Settlement Agreement it will be in compliance with the terms of the Agreement.**

**7. Tri Star Limousine agrees that this Settlement Agreement is intended only to resolve the instant regulatory matter affecting it that is before the Commission.**

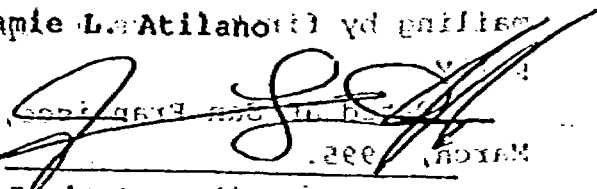
The parties agree jointly by executing and submitting this Settlement Agreement that the relief requested herein is just, fair, and reasonable, and in the public interest, and that the terms are binding when approved by the Commission. The parties respectfully request that the Commission adopt findings and conclusions consistent with the Settlement Agreement and that the instant proceeding be terminated upon such order of the Commission.

In the event that Tri Star Limousine has fully complied with the terms of this Agreement, the Safety and Enforcement Division will not oppose this application. No interest is payable with respect to the Settlement amount.

IN WITNESS WHEREOF, the parties hereto have executed this Settlement Agreement on the date set forth opposite their respective signatures.

I hereby certify that I have this day served the foregoing document upon the undersigned TRI STAR LIMOUSINE by mailing by registered mail to the address of the party addressed to each party.

Dated: 3-16-95


By:   
Jamie L. Atilano,  
Owner, Tri Star Limousine.

1st DIXIE PARK

DIXIE PARK

STAFF OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION

Dated: 3-22-95

By:   
WILLIAM R. SCHULTE  
Director of Safety and Enforcement Division

**CERTIFICATE OF SERVICE**  
Settlement Agreement on the date set forth opposite their  
respective signatures.

I hereby certify that I have this day served the foregoing document upon all known parties of record in this proceeding by mailing by first class a copy thereof properly addressed to each party.

Dated at San Francisco, California, this 27th day of March, 1995.

By: *[Signature]*  
Diane L. Park  
Owner, The Star Publishing

/s/ DIANE PARK

Diane Park

STAFF OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION

By: *[Signature]*  
WILLIAM R. SCHULTE  
Director of Safety and Enforcement Division

Dated: 3-25-95