

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-089BP

IN THE MATTER OF THE APPLICATION OF DARREL SEGERS, D/B/A DESIGNATED DRIVER SERVICES, 3012 ½ HILL COURT, GRAND JUNCTION, COLORADO 81504, FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
REQUIRING RE-NOTICE OF AMENDED APPLICATION;
DENYING MOTION TO DISMISS INTERVENTION;
VACATING HEARING; AND GRANTING MOTION FOR
EXTENSION OF TIME TO RESPOND TO DISCOVERY**

Mailed Date: March 31, 2004

I. STATEMENT

1. The captioned application of Darrel Segers, doing business as Designated Driver Services (Segers), was filed with the Colorado Public Utilities Commission on February 19, 2004, and was published in the Commission's "Notice of Applications Filed" (Notice) on March 8, 2004. It is currently scheduled for hearing on May 12, 2004.

2. Agnes Weir, doing business as Care Cars (Care Cars), and Tazco, Inc., doing business as Sunshine Taxi (Sunshine Taxi), have filed interventions in this matter.¹

3. On March 17, 2004, Segers filed a pleading entitled "Amendments to Application, Additional Contracts, Increase Estimated Immediate Cash Flow, Adopt Restrictions" (Amendment). The Amendment was accompanied by a listing of and support letters/contracts

¹ Care Cars' request that its intervention be withdrawn upon the approval of certain restrictive amendments agreed to by Segers has been granted. See, Decision No. R04-0321-I.

from approximately 80 additional individuals Segers proposes to serve on a contract carrier basis.² As recognized by Segers in the Amendment, the relief requested therein requires that the application be re-noticed. Accordingly, the amended application will be re-noticed by the Commission in its April 5, 2004, “Notice of Applications Filed” and the intervention period to such re-noticed application shall be shortened to 10 days.

4. The re-notice of the application will leave insufficient time for the parties to prepare for a hearing on May 12, 2004. Therefore, that hearing date will be vacated. A pre-hearing conference will be held in this matter at which time new hearing dates will be established.³ In this regard, the parties shall advise the administrative law judge (ALJ) of their availability for a pre-hearing conference to be held between April 21 and May 12, 2004, on or before April 19, 2004.⁴ The ALJ will issue a separate order setting the pre-hearing conference for a specific time and date and describing the issues to be discussed at the conference. The parties and/or their counsel will be allowed to participate at the pre-hearing conference via telephone in they so desire.

5. On March 24, 2004, Segers filed a pleading entitled, in part, “Request Intervention by Tazco, Inc., d/b/a Sunshine Taxi Be Denied” (Motion to Dismiss). The Motion to Dismiss requests that the Sunshine Taxi intervention be dismissed on various grounds. On

² As originally filed, the application sought contract carrier authority to serve approximately 103 individuals.

³ The vacation of the May 12, 2004, hearing date and the decision to hold a pre-hearing conference in this matter will render Sections (II) and (III) of Sunshine Taxi’s (I) Motion to Declare Application Incomplete; (II) To Vacate May 12, 2004 Hearing; and (III) To Utilize May 12, 2004 Current Hearing Date for a PreHearing Conference filed on March 29, 2004, moot. Any desired responses to Section (I) of this motion are due on or before April 12, 2004. See, 4 CCR 723-1-22(b).

⁴ The parties should reserve May 12, 2004, for a possible pre-hearing conference in the event an earlier date cannot be established.

March 29, 2004, Sunshine Taxi filed its Reply to the Motion to Dismiss along with a request that it be awarded attorney's fees incurred in responding to the same.

6. The Motion to Dismiss is without merit and will be denied. As indicated in the Reply, Segers has confused the concept of Sunshine Taxi's standing to intervene with issues relating to the merits of his application. As a passenger carrier holding authority to provide regulated transportation services within the geographic area encompassed by the application, Sunshine Taxi clearly has standing to intervene in this proceeding as a matter of right. See, Rule 65 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1-65.

7. Although a close question, Sunshine Taxi's request for an award of attorney's fees will be denied. In this regard, it is observed that Segers is representing himself in this matter. The Commission has traditionally afforded wide latitude to *pro se* parties and has been reluctant to impose sanctions upon them for behavior that might otherwise warrant sanctions if engaged in by an attorney. See, for example, 4 CCR 724-1-72(b)(1)(certain procedural requirements applicable to complaint proceedings shall not be strictly applied to *pro se* complainants).

8. Notwithstanding this ruling, Segers is advised that his continued appearance in Commission proceedings without the benefit of legal counsel will not provide him indefinite protection from otherwise sanctionable behavior. In this regard, it is observed that Segers has appeared on a *pro se* basis in at least two prior Commission proceedings wherein he sought passenger carrier operating authority. See, Docket Nos. 03A-108CP and 03A-381BP. As indicated in the Reply, Segers filed a similar motion to dismiss the Sunshine Taxi intervention in Docket No. 03A-381BP. The decision denying that motion contained a comprehensive

discussion of the standing issue. *See*, Decision No. R03-1300-I. Under these circumstances, it is difficult to conclude that Segers did not either know or, at the least, should have known that the Motion to Dismiss did not advance positions that had any reasonable chance of being successful on the merits (i.e., that could be found to be “frivolous and groundless”). This failure can only be attributed to Segers’ lack of legal training. For these reasons, Segers is urged to seek the advice of competent legal counsel in connection with the future prosecution of this application.

9. On March 29, 2004, Sunshine Taxi filed a pleading entitled “(I) Motion to Quash Applicant’s Discovery to Sunshine Taxi; (II) Sunshine Taxi’s Alternative Objections and Motion for Protective Order to the Self-Styled “Interrogatories and Requests for Production of Documents” of Darrel Segers, d/b/a Designated Driver Services; (III) Motion for Extension of Time to Reply to Discovery After Disposition of Objections and Motion for Protective Order; and (IV) Request to Shorten Response Time and for Expedited Action” (Sunshine Taxi Discovery Motion).

10. Section (III) of The Sunshine Taxi Discovery Motion will be granted, in part, and response time thereto will be waived. Any responses to the discovery propounded to Sunshine Taxi by Segers dated March 22, 2004, will be due 10 days after service of a Commission order resolving the motions set forth in Sections (I) and (II) of the Sunshine Taxi Discovery Motion. The request that response time to the motions set forth in Sections (I) and (II) of The Sunshine Taxi Discovery Motion be shortened will be denied. Any desired responses to those motions are due on or before April 12, 2004. *See*, 4 CCR 723-1-22(b).

II. ORDER**A. It Is Ordered That:**

1. The amended application filed in this docket by Darrel Segers, doing business as Designated Driver Services, pursuant to the pleading entitled “Amendments to Application, Additional Contracts, Increase Estimated Immediate Cash Flow, Adopt Restrictions” will be re-noticed by the Commission in its April 5, 2004, “Notice of Applications Filed” and the intervention period to such re-noticed application will be shortened to 10 days.

2. The hearing on this matter, currently scheduled for May 12, 2004, is vacated.

3. On or before April 19, 2004, the parties to this proceeding shall advise the administrative law judge of their availability for a pre-hearing conference to be held between April 21 and May 12, 2004. The parties shall reserve May 12, 2004, for a possible pre-hearing conference in the event an earlier date cannot be established.

4. Sections (II) and (III) of the (I) Motion to Declare Application Incomplete; (II) To Vacate May 12, 2004 Hearing; and (III) To Utilize May 12, 2004 Current Hearing Date for a PreHearing Conference filed by Tazco, Inc., d/b/a Sunshine Taxi, are denied as moot. Any desired responses to Section (I) of such motion shall be filed on or before April 12, 2004.

5. The “Request Intervention by Tazco, Inc., d/b/a Sunshine Taxi Be Denied” filed in this docket by Darrel Segers, doing business as Designated Driver Services, is denied. The request of Tazco, Inc., d/b/a Sunshine Taxi, that it be awarded attorney’s fees incurred in responding to that pleading is denied.

6. Section (III) of the “(I) Motion to Quash Applicant’s Discovery to Sunshine Taxi; (II) Sunshine Taxi’s Alternative Objections and Motion for Protective Order to the Self-Styled

“Interrogatories and Requests for Production of Documents” of Darrel Segers, d/b/a Designated Driver services; (III) Motion for Extension of Time to Reply to Discovery After Disposition of Objections and Motion for Protective Order; and (IV) Request to Shorten Response Time and for Expedited Action” filed by Tazco, Inc., d/b/a Sunshine Taxi, is granted, in part, consistent with the provisions of this Order and response time to such motion is waived.

7. The request of Tazco, Inc., d/b/a Sunshine Taxi, to shorten response time to the motions set forth in Sections (I) and (II) of the pleading referred to in paragraph 6 above is denied. Any desired responses to such motions shall be filed on or before April 12, 2004.

8. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge