

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Grant Schauer (protestant)	:	
	:	
v.	:	C-2012-2304882
	:	
Yellow Cab Company of Pittsburgh (respondent)	:	

REPLIES TO EXCEPTIONS OF RESPONDENT

The respondent's exceptions to the initial decision contains transparent fabrications and provides further evidence that the respondent cannot keep their fictitious numbers straight. The record shows that the respondent first submitted a letter to the PUC claiming that I had misremembered the fare and that it was actually \$7.40 (Answer & New Matter to Formal Complaint - Yellow Cab Co of Pgh, filed 06/17/2012). After I proved this was an impossible fare given the trip's distance and directly accused them of perjury in front of the PUC (Reply to Answer & New Matter-Grant Schauer, filed 6/11/2012), the respondents then quietly switched to a story for the initial hearing involving a \$6.40 fare, with the cab driver claiming that I became irate and that the driver gave me \$4.00 after finding it in his coat pocket (Tr. 20¹). To add insult to injury, the story was revised to one where \$3.00 was initially procured and where I bilked another dollar out of the driver. According to the respondent, my entire complaint is over the \$0.60 cents that was not immediately procured. This is an unlikely scenario. Now, Mr. Guarneri writes that "Mr. Schauer testified that he gave Mr. Foreman \$20 and intended to tip him \$2.60." (Ex. 2²) and uses this figure as a basis of argument throughout the respondent's Exceptions

¹ Where "Tr.." followed by a number refers to the Transcript page of the Initial Hearing before Administrative Law Judge Mark Hoyer filed on July 23, 2012.

² Where "Ex.," followed by a number refers to the page of "Exceptions-Yellow Cab Company of Pittsburgh" filed by the respondent on November 29, 2012.

(e.g. Ex. 4), even though I have maintained since my formal complaint that I asked for \$12.00 back on a \$6.40 fare (Fc. 6³) and even testified as such (Tr. 8). In my testimony, I do in fact make a mistake when I say that "...the fare was \$6.40. I gave the driver twenty dollars and asked for twelve dollars back, which was -- so, I intended to tip him, you know, \$1.60; actually, \$2.60 rather" (Tr. 8). I later said "I know that this money is --you know, it's \$2.40" (Tr. 8). Clearly, I was flustered and simply miscalculated the tip when I spoke. I was not prepared for a hearing in which I gave testimony. I was quite ill at ease as I never anticipated that the cab driver himself would be directly involved in the hearings, and I was nervous about potential recourse by him. The transcript clearly demonstrates that I was anxious and unprepared and, defending my position *pro se*, that I was 'learning on the job.' By choosing to use my simple miscalculation against me, the respondent takes my testimony out of context in a dishonest way, selectively choosing to employ just one figure out of four distinct figures that I stated in my testimony (Tr. 8), two of which correctly matched the figures my Formal Complaint (Fc. 6) and did not involve calculation. Furthermore, conjuring up a story where I intended to tip \$2.60 makes no sense. First, it directly contradicts the respondent's story that \$3.00 was procured and that I demanded another dollar (Ex. 3 and Tr. 20). Second, for someone content to tip 40% on a cab ride, being upset about \$1.00 is extremely unlikely. I in fact intended to give a 25% tip of \$1.60. Considering social tipping customs, this is a much more plausible amount, particularly for someone who makes \$25,000 a year as a student.

The respondent claims that "Mr. Schauer was not in a position to notice the denominations of the bills that Mr. Foreman originally pulled from his coat pocket because it was dark and he was in the back seat" (Ex. 5). Taken right out of a Hardy Boys novel (perhaps *Darkness Falls*), this is a ridiculous counterclaim. First, my eyesight is corrected to 20/20 with prescription glasses. I see perfectly, and, by the way, my night vision is outstanding since the

³ Where "Fc." followed by a number refers to the page of the Formal Complaint, filed by Grant Schauer on May 17, 2012

majority of my day is spent in a completely dark room operating a fluorescence microscope. Still, the dome light in the cab was sufficient to illuminate the ones, but I would have seen them even if it was not as Murray Ave. is a well-lit street in a busy commercial business district. As I stated in my formal complaint (Fc. 6), Mr. Foreman actually procured a large wad of rolled up bills, in which I distinctly remember seeing several one dollar bills (Tr. 8). In fact, telling Mr. Foreman that I saw that he had ones is what escalated the situation to one where I felt threatened in the first place. Additionally, it is unlikely that Mr. Foreman would keep large bills and small bills in separate pockets.

Mr. Guarnieri contends that I was motivated by having Mr. Foreman fired (Ex. 4). Mr. Guarnieri has an active imagination, but not a very good one. If he were smart, he would have fabricated a story in which I had an actual motive to want to have the driver fired. A simple scenario where the driver inadvertently insulted me would have sufficed. However if one were to believe the respondent's current version of the story, it would seem that I am going out of my way to try and have someone fired who 1) provided reasonable service, 2) did not make me feel threatened in any way, 3) initially gave me all but \$0.60 of my change and 4) *immediately* rectified the situation by giving me the \$0.60 and an additional \$0.40 of his own money when I became upset. This is simply not realistic.

Regarding the question of "reasonable service" (beyond the driver's petty extortion), the respondent attempts to delegitimize Judge Mark Hoyer's Initial Decision by simply overlooking the record. Mr. Guarnieri writes that "There is no dispute that Mr. Foreman transported Mr. Schauer as requested..." (Ex. 6). This is not true. I wrote in my initial complaint and testified that the cab driver refused to drive me down the street to get change (Fc. 6 and Tr. 8. See also "Finding of Fact 5," Id. 3⁴). Clearly, there was an issue of refusal of service that the respondent

⁴ Where "Id." followed by a number refers to the page of the Initial Decision by Administrative Law Judge Mark Hoyer, filed on November 11, 2012

conveniently overlooked. Furthermore, Mr. Guarnieri writes that I testified that Mr. Guarnieri did not threaten me, and that the threat was not one in which a reasonable person would be in fear or feel threatened (Ex., 7). Actually, I clarified during testimony that although Mr. Foreman never made any direct threats to my person, I felt threatened by his aggressive tone of voice and the hostile way he was looking at me (Tr. 40). As I testified and wrote in the initial complaint, I feared from his intimidating body language that he was going to punch me (Tr. 40 and Fc. 6). As a reasonable person, this fear was very real, and reasonable service does not include fear of physical assault from the provider. Lastly, the respondent claims that there is nothing in the record to indicate that the driver tried to conceal his identity (Ex. 8), but this couldn't be further from the truth. The record indicates that the driver refused to tell me his name, refused to show me his driver's certificate, and sped off after I exited the cab leaving me very little time to see the cab number (see Id. 6). Mr. Foreman even admitted that he was in fact not willing to show me his certificate upon request (Tr. 25-26, 27-28). Taken together, the record that the respondent chooses to ignore shows that the driver's actions clearly constituted extremely unreasonable service.

Though the respondent maintains that I was motivated by having Mr. Foreman fired (Ex. 4), I truthfully have nothing to gain or lose by pursuing this case and was not motivated by wanting the driver fired. I do not care about the cab driver whatsoever; I will never encounter him again and the outcome of this event will ultimately have no effect on me. My actual motive for spending my valuable time on this case is primarily respondent director Jerry Campolongo's poor treatment of the situation. As a matter of principle in the interest of the well being of my community, I care that the correct action is taken in the face of a serious allegation regarding a public service. In this case, I believe the correct action by a competent director would have been to terminate the driver or, at the very least, to incur some type of punishment or change in policy. However, Mr. Guarnieri writes that "Yellow Cab investigated the incident and did not

believe that Mr. Foreman overcharged or threatened Mr. Schauer” (Ex. 5). This is outrageous and also completely implausible; Mr. Campolongo had no reason at all to not believe me, nor did he ever indicate one. Surely, Mr. Campolongo knew I was telling the truth after pursuing the matter by making a half dozen calls over the span of a month, especially after I was fully refunded. So, either Mr. Campolongo believed me and did not take this incident seriously (the most plausible scenario), or he did not believe me despite my credibility and the overwhelming evidence. The former case would indicate deliberate neglect of a director's duties by Mr. Campolongo and the latter case would point to incompetence as a director who is tasked with investigating basic matters of service. Either way, a punitive civil fine in this matter shows for the record that it was improperly handled and was, contrary to his inaction, a very serious matter indeed.

The respondent claims that the civil penalty of \$1500 was excessive (Ex. 2,8). It is claimed that "Judge Hoyer, in applying the factors, focuses almost exclusively on 52 Pa. Code §69.120(c)(1) and (3). ALJ Hoyer gives little deference to the remaining factors" (Ex. 10). This is further evidence of selective reading of Judge Hoyer's Initial Decision by the respondent. Considerations of 52 Pa. Code §69.1201(c)(4) are explicitly discussed since the respondent did not make any measures to prevent similar conduct in the future (Id. 9, 11). Also, considerations of 52 Pa. Code §69.1201(c)(8) (Id. 10, 11) are discussed with regards to determent. A \$1500 penalty is not excessive under these additional considerations.

The respondent's attempt to minimize this case is disrespectful to me and to the PUC. Given the difficulty of registering a complaint with the Yellow Cab Company of Pittsburgh in the first place and the flippancy attitude of its director, it is impossible to know how many patrons (intoxicated or otherwise) this cab driver has scammed without recourse. If the driver treated just a small fraction of customers this way in the span of his four years with Yellow Cab, I am confident that is on the magnitude of hundreds of people. If several drivers were allowed to

operate in this manner under Mr. Compolongo's directorship, then the problem could be fairly widespread while staying reasonably under the radar. When inaction like that of Mr. Campolongo's goes unfettered and unpunished in a situation of this magnitude, the citizens of the commonwealth of Pennsylvania are the losers. Thus, I am very appreciative of Administrative Law Judge Mark Hoyer's careful and attentive initial decision on the matter and for the time and energy spent at the PUC in taking it seriously, and I would like to request that the PUC dismiss each of the completely incredible Exceptions of the Respondent.

Respectfully and sincerely submitted,

A handwritten signature in black ink, appearing to read 'Grant Schauer', with a long horizontal flourish extending to the right.

Grant Schauer
5835 Douglas St.
Pittsburgh PA, 15217

Date: December 7, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this 7th day of December 2012, served a copy of the above Exceptions to Complainant by first class, United States Mail, postage pre-paid, addressed as follows:

Paul S. Guarnieri, Esq.
MALONE MIDDLEMAN, P.C.
Northridge Office Plaza
117 VIP Drive, Suite 310
Wexford, PA 15090

I also certify that a copy of the Exceptions was electronically served upon the Commission's Office of Special Assistants at ra-OSA@pa.gov.

A handwritten signature in black ink, appearing to read 'Grant Schauer', with a stylized, cursive script.

Grant Schauer