

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2258

IN THE MATTER OF:

Served October 8, 1981

Investigation of Alleged Over-)
charges By and Order to Show Cause)
Directed Against JACK B. DEMBO)

Case No. MP-81-03

By Order No. 2202, served March 16, 1981, as amended by Order No. 2207, served March 25, 1981, this proceeding was instituted to investigate whether respondent Jack B. Dembo had demanded and collected fares in excess of those prescribed for taxicab transportation between two signatories to the Washington Metropolitan Area Transit Regulation Compact, Title II, Article XII, Section 1(c) and 8, and orders issued thereunder. ^{1/} Also to be investigated were allegations that respondent issued incomplete or fictitious receipts, refused to issue a receipt, that he failed to display his license and identification card, and that he conducted himself in a rude, discourteous and disorderly manner in disregard for the safety, comfort and convenience of his passengers in violation of various regulations cited below.

Hearings, at which respondent was represented by counsel, were held on April 21, May 4 and May 19, 1981. Intervenor Airport Limo, Inc., also represented by counsel, appeared at the hearing on April 21, 1981, and presented one witness.

One preliminary matter requires brief discussion. Respondent contends that Washington National Airport, a terminus on most of the trips discussed herein, is a point in the District of Columbia. Thus, according to Mr. Dembo, trips between that airport and other points in the District of Columbia are not subject to this Commission's jurisdiction. On that basis, he moves to strike all references in the record to such trips.

The lengthy argument in support of this proposition need not be summarized. The Act of October 31, 1945, 59 Stat. 552, §§101-102, D.C.Code (1973 Ed.) note following §1-101, is dispositive. Section 101 defines the District of Columbia-Virginia boundary generally as the mean high water mark of the Potomac River on the Virginia side.

^{1/} Order Nos. 1982, 2067 and 2080 effective April 20 and December 31, 1979, and February 4, 1980.

Section 102 cedes all land between that line and the more westerly high-water mark as it existed on January 24, 1791, to Virginia and declares such land ". . . to be henceforth within the territorial boundaries, jurisdiction, and sovereignty of the State of Virginia." Washington National Airport, which opened to serve the public on June 16, 1941, was part of that land, and there can be no question that at the time Congress ratified the Compact, September 15, 1960, that airport was within Virginia. The motion to strike is denied.

Mr. Arthur Reed Creech testified that he is a private investigator whose firm was employed by Airport Dispatch Services. 2/ On September 17, 1980, at approximately 4:30 p.m., near 16th and K Streets, N. W., Washington, D. C., Mr. Creech was asked by Mr. Dembo if he (Mr. Creech) wanted to go to Dulles International Airport. In response to Mr. Creech's question, respondent quoted a fare of ". . . \$6 the same as the bus." Subsequently, Mr. Dembo drove Mr. Creech in a taxicab (together with several other passengers) to Dulles Airport. Mr. Creech testified that, at Dulles, he paid Mr. Dembo \$8 (including a \$2 tip) and was given a blank receipt bearing respondent's name. 3/

Steven A. Herman, Esquire, was transported on February 13, 1981, by respondent in a District of Columbia licensed taxicab from Washington National Airport to 5315 - 29th Street, N. W., Washington, D. C. Upon arrival respondent Dembo told Mr. Herman that the fare was \$13.50 including a 50-cent gate fee. Mr. Herman looked for respondent's license and identification card in the sun visor and dashboard areas of the cab, but did not see them on display. When asked by Mr. Herman, Mr. Dembo refused to provide his name, his hacker's number or a receipt. Mr. Herman stated that respondent determined the routing of the trip.

Ms. Peggy Ann Potts rode in a taxicab driven by respondent on October 10, 1979, at approximately 10 p.m. from Washington National Airport to Bowie, Md. A co-worker with whom she was traveling was likewise driven to a different address in Bowie. Mr. Dembo dropped off a third, non-affiliated passenger at 22nd and K Streets, N. W., Washington, D. C., before proceeding to Bowie. Neither Ms. Potts nor her co-worker directed Mr. Dembo on how to get to Bowie, but, once there, did assist him in negotiating city streets and locating their respective residences. At Mr. Dembo's behest, Ms. Potts paid \$74.20 for this trip and was issued two receipts totaling \$74.20. Both receipts identify Yellow Cab of Alexandria, Va. number 5 as the vehicle

2/ This company is under common control with Airport Limo, Inc.

3/ We take administrative notice that the correct individual fare for the described trip was approximately \$25.

involved, "VA." as the point of origin and "Bowie" as the destination. Ms. Potts testified that, during the course of the trip, she and her co-worker were discussing the convention they had attended and opined that Mr. Dembo knew that they were traveling together.

On cross-examination, Ms. Potts denied entering Mr. Dembo's cab at 11 p.m. (rather than 10 p.m.) and also denied that respondent had stated that there would be a separate charge for each passenger going to Bowie. She reaffirmed that Mr. Dembo was not given any instructions on how to get to Bowie and stated that Mr. Dembo did not request payment when her co-worker was dropped off. Upon arrival at Ms. Pott's residence, she was advised only of the total charge and, after payment, given two receipts.

Sidney M. Fogelman, D.D.S., testified that on December 2, 1980, he, his wife, and another couple with whom the Fogelmans were traveling engaged Mr. Dembo's cab at Washington National Airport. Dr. Fogelman told respondent that there were two stops to make, one in Potomac, Md., and the other in Bethesda, Md. He did not attempt to direct the routing of the trip except to instruct that the first stop be Potomac. Upon arrival at Dr. Fogelman's residence in Bethesda, respondent stated that the fare was \$25 for each stop for a total of \$50.

On cross-examination, Dr. Fogelman stated that his wife and the other couple originally hailed respondent's cab while Dr. Fogelman was retrieving their luggage (from four to six pieces). To the best of Dr. Fogelman's recollection, no fare was demanded in Potomac, and he was not advised that two separate fares would be charged until arrival at his residence.

On April 5, 1980, Mr. Paul S. Tischler engaged respondent to transport him by taxicab from Washington National Airport to Mr. Tischler's residence on Rittenhouse Street, N. W., in the District of Columbia. Accompanying Mr. Tischler were his wife and two sons (ages 9 and 6). The Tischlers did not direct what route should be followed and had from two to four pieces of luggage. Upon arrival at the Tischler residence, Mr. Dembo stated that the fare was \$22. In response to Mr. Tischler's inquiry about why the fare was so high, Mr. Dembo stated that the interstate fares had increased on the preceding Thursday.

Mr. Tischler testified on cross-examination that he did not request a receipt. Subsequently, Mr. Tischler learned that the fares had not increased, and when he next saw respondent in the vicinity of 16th and K Streets, N. W., Washington, D. C., he told Mr. Dembo that he (Mr. Tischler) was going to get his money back and wrote down respondent's cab and tag number.

Mr. David R. Berg engaged respondent on December 8, 1980, to provide taxicab transportation from Washington National Airport to 401

M Street, S. W., Washington, D. C. After Mr. Berg gave his destination, Mr. Dembo ". . . cursed where I was going, because it was such a short ride and he had waited so long." Upon arrival at Mr. Berg's destination, Mr. Dembo demanded a fare of \$7.80. Mr. Berg contended that the correct fare was approximately \$4.50 to which respondent replied ". . . that he knew [expletive deleted] well what the fare was and it was \$7.80 and I [Mr. Berg] had better pay him." After more discussion along the same vein, Mr. Berg testified,

So I said: Well, that is that. And I got out of the cab. He got out of the cab and chased me down the sidewalk and caught me about 100 feet away and jumped on top of me and pinned me down on the sidewalk. He was cursing at me and threatened to hit me. He accused me of hitting him with my briefcase.

Q Did you hit him with your briefcase?

A He may have run into the briefcase, but I didn't do anything to put the briefcase in his way. I was trying to get out of his way. He outweighs me by 100 pounds.

Q You were running away?

A I was running away.

Q And he pursued you and caught you from behind and knocked you down.

A He knocked me down. I was face down. My glasses went flying, the notebook I was carrying went flying and my briefcase went flying. Fortunately, there were a couple of people walking by or I don't know what he would have done to me. One of them called the police for me and I hollered out "Call the police, call the police. This man is attacking me", and someone did.

Dembo did not get any money from me even then with me on the ground. I was pretty upset. He took my glasses and notebook, which he could find before I could find and locked them in his taxicab so I couldn't leave. Then we waited for the police. It took seemingly forever [for them] to get there.

After discussions with respondent, the police advised Mr. Berg to pay \$7.20, which he still maintained was too high. Following the

arrest of Mr. Berg (for disorderly conduct), 4/ respondent waived the fare saying that Mr. Berg's arrest was payment enough.

Mr. Wayne Holroyd, a resident of southwest Washington, D. C., also testified about this incident. Mr. Holroyd came upon the scene at about the time that physical contact was first made between Mr. Berg and respondent. At that point, Mr. Berg was fleeing from Mr. Dembo, Mr. Dembo grabbed Mr. Berg around the shoulders and chest, and Mr. Berg's briefcase hit Mr. Dembo as Mr. Berg was ". . . being rolled to the ground." 5/ Mr. Holroyd also corroborated that Mr. Dembo was demanding a fare of "\$7 and something."

Maurice J. Harmon, the Commission's Rate Supervisor, was offered without objection as an expert to testify as to what the rates and charges should be for interstate taxicab trips between points in the Metropolitan District. Mr. Harmon explained how he calculates the mileage of an interstate trip by using a map measuring wheel, a conversion table and maps of the Metropolitan District. He also described the manner in which he handles complaints about taxicab fares and related practices and his record keeping habits in connection therewith. Table I reflects Mr. Harmon's testimony regarding the correct mileages and fares for the trips discribed above.

TABLE I

<u>Complainant</u>	<u>Miles</u>	<u>Fare Demanded</u>	<u>Correct Fare</u>
Mr. Herman	10.0	\$13.50	\$ 9.20 <u>6/</u>
Ms. Potts	25.0	74.20	21.00 <u>7/</u>
Dr. Fogelman	26.0	50.00	24.25 <u>8/</u>
Mr. Tischler	11.0	22.00	12.25 <u>8/</u>
Mr. Berg	4.5	7.80	4.80 <u>6/</u>

4/ The charge against Mr. Berg was subsequently dismissed.

5/ "It was not like Mr. Berg wanted to hit him. Not from what I had seen. It was just an accidental hit."

6/ Includes 50-cent airport gate fee.

7/ Includes 60-cent extra passenger fee.

8/ Includes 50-cent airport gate fee and \$2.25 extra passenger (3) fees.

Mr. Harmon has known the respondent for approximately four years and occasionally received unsolicited telephone calls from Mr. Dembo. To Mr. Harmon's knowledge, 9/ Mr. Dembo has never been licensed as a taxicab driver in Alexandria, Va. On or about October 10, 1979, Mr. Dembo regularly drove Yellow Cab of D. C. number 1152, not Yellow Cab of Alexandria number 5.

Mr. Harmon also testified about several letters of complaint that he received about Mr. Dembo, his contacts with Mr. Dembo about those letters and the records which he compiled and maintained as part of his regular duties in handling those complaints. In response to each complaint, Mr. Harmon calculated the correct milage and fare and compared his results to the fare charged. That information is set forth in Table II.

TABLE II

<u>Complainant</u>	<u>Miles</u>	<u>Fare Demanded</u>	<u>Correct Fare</u>
Dr. Ende	7	\$15.00	\$ 6.60 <u>10/</u>
Mr. Haag	7	25.00	7.55 <u>11/</u>
Mrs. Boncler	6	20.00	8.25 <u>12/</u>
Mr. Pera	7	18.50	6.80 <u>13/</u>

Dr. Ende submitted two receipts bearing respondent's name and cab number, the date of May 4, 1979, and indicating fares of \$7.50 for transportation from the Sheraton Park Hotel in Washington, D. C. to Washington National Airport. Respondent admitted to Mr. Harmon that he had been the driver and had issued the receipts to Dr. Ende and his companion. The receipts did not show respondent's public vehicle's operators license number, the milage, the time of the trip or the tag number.

9/ During the time of his first contacts with respondent, Mr. Harmon was employed in the District of Columbia hack office and his duties included examining and advising applicants for D. C. hacker's licenses, including Mr. Dembo.

10/ Includes 60-cent extra passenger fee.

11/ Includes 50-cent airport gate fee and 75-cent extra passenger fee.

12/ Includes 50-cent airport gate fee and \$2.25 extra passenger (3) fees.

13/ Includes 50-cent airport gate fee.

Mr. Haag submitted two receipts dated May 28, 1980, indicating Yellow Cab number 1152, fares of \$13.50, ^{14/} origin of Washington National Airport, destinations of "SH Washington, D. C." and "D. C." and what appear to be respondents initials. Mr. Dembo admitted to Mr. Harmon being the driver and issuing the receipts, and confirmed that the actual destination was the Sheraton Washington Hotel in Washington, D. C. Mr. Dembo stated his opinion that Mr. Haag and his companion were separate fares. ^{15/} The receipts lack any information about the license and tag numbers, the time and the mileage.

Mrs. Boncler submitted four receipts dated September 14, 1980, indicating respondent's name and cab number, "N. A." (National Airport) as the origin, "D. C." or "801 N. H. Ave." as the destinations, and fares of \$5. The receipts lack license and tag numbers, the time and the mileage. Mr. Harmon read to Mr. Dembo the letter from Mrs. Boncler describing a trip taken by her and three co-workers from Washington National Airport to the Guest Quarters (1 passenger), 801 New Hampshire Avenue, N. W., and The River Inn (three passengers), 924 - 25th Street, N. W., both in Washington, D. C.; and Mr. Dembo recalled driving his cab on that trip. Mr. Dembo also stated that he was under the impression that they were four separate passengers.

Mr. Pera did not submit a receipt. When Mr. Harmon read to respondent Mr. Pera's letter, describing a trip on February 7, 1981, from Washington National Airport to the Shoreham Hotel in northwest Washington, D. C., Mr. Dembo admitted being the driver and charging \$18.50. Mr. Dembo told Mr. Harmon that Mr. Pera had paid with a personal check causing Mr. Dembo to impose a surcharge.

On cross-examination, Mr. Harmon testified about how he used the map measuring wheel, checked it for accuracy and used a conversion table (Exhibit 5) to determine the number of miles that each trip should involve. The map measuring wheel is used as a convenience in lieu of requiring odometer verification of every particular taxicab route that might be utilized in the District of Columbia. ^{16/}

^{14/} Apparently, each receipt incorporates a \$1 tip.

^{15/} The correct fares, had those passengers been traveling separately, would have been \$6.30 (not \$12.50) each.

^{16/} Order No. 67 first adopted odometer readings as the basis for determining mileage on interstate taxicab trips, and this practice has been in force since 1961. Order No. 91, served November 15, 1961, requires that a taxicab odometer be accurate within a 10 percent tolerance.

Mr. Harmon stated that Title 14 [14 D.C.R.R. §345.8] requires a taxicab driver to follow the ". . . most direct or most normally travelled route on all trips."

Mr. Harmon testified on re-direct examination that passengers are entitled to the party rate (mileage fare for the first passenger plus a per-capita charge for each additional passenger) if the passengers had decided, prior to entering the cab, that they were going to travel together. On occasion, Mr. Dembo had disputed whether certain passengers constituted a group, but he never, in Mr. Harmon's recollection, disputed receiving the amount which the complainant said was paid. In using the map measuring wheel to make the mileage calculations set forth in Tables I and II, Mr. Harmon observed no indication that the wheel was malfunctioning.

Harold R. Bruno, Jr., and Dr. Lorin Kerr testified that they have ridden with respondent in his taxicab and have been very satisfied with the service.

Eddie L. Turner is a supervisor for Airport Dispatch Service at Washington National Airport. During his one-year tenure in that position and during the previous year when Mr. Turner was a dispatcher, he never "had any trouble" with Mr. Dembo. He also testified that in October of 1979, at some time after 11 p.m., a lady came out of the American (Airlines) door wanting to go to Bowie and entered a cab over the protests of the driver. The cab then proceeded to the Eastern Air Lines terminal where one or two more passengers may have entered the cab. Mr. Turner did not see the woman enter the cab and does not know whether another passenger may have entered the cab at the same time. Mr. Turner's recollection is that there were no passengers in the cab at the time when he directed the woman to enter.

Mr. William Brewton, a part-time cab driver, stated that he was talking to Mr. Dembo in August 1980 when a man accused Mr. Dembo of having overcharged him and stated ". . . 'I will get more than I paid you.' Something along that order."

The respondent testified that he has been driving a cab in the District of Columbia for approximately four years. He believed that he charged Mr. Herman \$11.50 or \$12 but could not remember the exact fare. ^{17/} Mr. Dembo also denied that he gave Mr. Creech a blank receipt.

With respect to transporting Ms. Potts, respondent stated that he had picked up a male passenger at the American Airlines terminal,

^{17/} \$11.50 would be the correct fare for a 13.5 mile trip, some 35 percent in excess of the actual mileage involved.

and then proceeded to the Eastern Airlines Terminal where Ms. Potts and a second male entered the cab. Mr. Dembo allegedly told her that the trip would involve separate fares. After dropping off the first passenger at 20th and K Streets, N. W., Washington, D. C., according to Mr. Dembo, the second male passenger directed the route to be followed to Bowie. Mr. Dembo claimed that he requested payment of one fare at Paddock Lane but was told that the entire trip would be paid for by Ms. Potts at the end of the trip. Mr. Dembo charged for the entire mileage involved, including the detour to 22nd (or 20th) and K Streets. Mr. Dembo admitted that he had not been driving Yellow Cab of Alexandria number 5 on that occasion, 18/ and deliberately misidentified his cab because ". . . when I got hit with a single fare, . . . something is going to happen here, so I goofed."

Mr. Dembo stated his belief that Dr. Ende, his companion and a third person who entered the cab at the same origin had been traveling separately. Mr. Dembo does not inquire whether passengers are traveling in a group unless it is a husband, wife and children traveling together. He feels that the burden is on the passengers affirmatively to state that they are traveling in a group before entering the cab. Inasmuch as no regulation specifically requires Mr. Dembo to inquire as to his passengers' status, he assumes (absent a pre-entry declaration to the contrary) that his passengers are traveling separately and ignores any other evidence that they may be a pre-formed group.

Mr. Dembo did realize that the Tischlers were a pre-formed group. He assertedly charged on that basis plus fees for baggage which Mr. Dembo estimated as eight pieces or better. 19/ According to Mr. Dembo, he charged and received approximately \$18. 20/ With respect to the complaint filed by Mr. Haag, Mr. Dembo testified that one gentleman entered his cab at the American Airlines terminal and directed Mr. Dembo to pick up a friend at the United Airlines terminal. Even though they explained to Mr. Dembo that they ". . . split up to try to get a cab", he still charged them for separate fares. Mr. Dembo approximated the distance on this trip to be seven or eight miles. He could not reconcile his charge of \$12.50 per person with an eight-mile

18/ In fact, Mr. Dembo has never been licensed to operate a Virginia taxicab.

19/ Mr. Tischler testified that the number of pieces of baggage did not exceed four.

20/ Assuming an \$18 fare and eight suitcases, Mr. Dembo would have had to drive approximately 17-1/2 miles. One way of doing this would have been to detour around Robert F. Kennedy Stadium before proceeding to Mr. Tischler's residence.

trip. 21/ With respect to Mrs. Boncler's party, Mr. Dembo again assumed that they were traveling individually.

Mr. Dembo testified that Dr. Fogelman first hailed his cab, not the three others in the party as testified to by Dr. Fogelman. Respondent claimed that he was instructed to proceed to Potomac by way of the George Washington Parkway and also claimed that he asked for a payment in Potomac. Assertedly, Dr. Fogelman told Mr. Dembo at that point that the entire fare would be taken care of in Bethesda. It was apparent to Mr. Dembo from the passengers conversation in the cab that they had been together at a convention in New York, and Mr. Dembo admitted being advised by Dr. Fogelman that there would be additional passengers before Dr. Fogelman entered the cab. That did not mean, according to Mr. Dembo, that they were one group rather than two groups merely sharing a cab.

Respondent testified that he originally demanded a fare from Mr. Pera in accordance with the odometer mileage for the trip. When Mr. Pera wanted to pay by check, Mr. Dembo refused to accept a check and the Metropolitan Police were called. Mr. Dembo decided that if he was going to take a check, he should be paid extra and charged Mr. Pera \$18.50. According to Mr. Dembo, it took 10 days for the check to clear. 22/

Finally, Mr. Dembo stated that all he demanded from Mr. Berg was \$5.25 and that Mr. Berg refused to pay more than \$3. Mr. Dembo agrees that a dispute ensued, but contends that Mr. Berg struck respondent on the left shoulder with his briefcase before fleeing. At that point ". . . [Mr. Dembo] ran after Mr. Berg and grabbed him from behind and he dropped his briefcase and his glasses and fell down" Mr. Dembo denied quoting any specific fare to the police and further denied saying that Mr. Berg's arrest was satisfaction sufficient to warrant not collecting any fare.

The Compact, Title II, Article XII, Section 8, confers on the Commission the power ". . . to prescribe reasonable rates for transportation by taxicab only between a point in the jurisdiction of one signatory party and a point in the jurisdiction of another signatory party provided both points are within the Metropolitan District." Title II, Article XII, Section 15 states that "[t]he

21/ The correct individual fare for an eight-mile trip would have been \$7.10 with no airport gate fee inasmuch as (assumedly) two separate fares were involved.

22/ The surcharge for not having the use of \$6.80 (the correct fare for this trip) for a 10 day period is equivalent to an annual interest rate of 6,194 percent.

Commission shall have power to perform any and all acts and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this Act." Section 21 of the same Article continues in force the rules and regulations of this Commission's predecessors ". . . unless and until otherwise provided by [this] Commission in the exercise of its powers under this Act."

In its first review of taxicab rates, this Commission specifically adopted for taxicabs licensed and domiciled in the District of Columbia, all ". . . regulations . . . prescribed and approved by the District of Columbia Public Utilities Commission." 23/ Subsequently, in response to requests from members of the taxicab industry, the Commission adopted additional and supplemental regulations for D. C. taxicabs as set forth in the appendix to this order. 24/ To the extent that the regulations adopted in Order No. 91 are inapplicable, the D. C. regulations adopted by Order No. 67 continue in force. 25/ Naturally, those D. C. regulations which have no relationship to rates and fares and the collection thereof would be beyond the scope of this Commission's enforcement powers.

The Commission finds, based on the testimony of the complainants and respondent's admissions that Jack B. Dembo was the driver on each complaint and that at all times pertinent to this proceeding Mr. Dembo was a taxicab operator licensed by the District of Columbia. We further find that the mileage calculations made by Mr. Harmon (as shown in Tables I and II) represent the correct chargeable mileage for their respective trips. Admittedly, there may be some variation between the measurements made by the map measuring wheel and Mr. Dembo's odometer, but these should not exceed the 10 percent tolerance factor prescribed in Order No. 91.

We further find that respondent is an experienced taxicab driver charged by law with knowledge of the regulations pertaining to taxicabs and taxicab drivers licensed by the District of Columbia. A close reading of respondent's testimony clearly reveals that he can make careful distinctions among those regulations. The acts complained of were performed by Mr. Dembo knowingly and wilfully. Not only did Mr. Dembo know (actually or constructively) the appropriate regulations, his departures therefrom were clearly intentional or

23/ Order No. 67, served October 9, 1961, p.4.

24/ See Order No. 91, served November 15, 1961.

25/ The D. C. regulations are found in 14 D.C.C.R., Chapter III.

marked by a careless disregard for whether he had the right so to act. 26/

We further find that, based on the evidence available to him at the time of providing the transportation, Mr. Dembo knew or should have known that the transportation of Ms. Potts, Dr. Fogelman, and Mr. Haag and their respective traveling companion(s) constituted the transportation of parties with fares to be computed as prescribed in section (f) of Order No. 91. 27/ To the extent that the testimony of Mr. Dembo (and Mr. Turner) conflicts with the testimony of Ms. Potts and Dr. Fogelman, we find the passengers' testimony more credible. With respect to the Haag party, our finding is based on respondent's own testimony. We further find that the evidence of record is insufficient to support a finding that Mr. Dembo knew or should have known that Dr. Ende and Mrs. Boncler and their respective traveling companions constituted preformed parties.

We further find that Mr. Dembo did not overcharge Mr. Berg in violation of Title II, Article XII, Section 8 of the Compact, provision (c) of Order No. 91 28/ and Order No. 2067. It is clear that no fare was ever paid. We do find, however, that Mr. Dembo utilized abusive language, threats, withholding of Mr. Berg's property and physical assault on Mr. Berg in an attempt to extort an excessive fare from Mr. Berg. To the extent that Mr. Dembo's testimony may be read to suggest an alternative finding, we reject such testimony in favor of that provided by Mr. Berg and Mr. Holroyd.

We conclude that, for the purposes of our enforcement powers, 14 D.C.C.R. §305.13 (dealing with receipts) has been superceded by provision (e) of Order No. 91 29/ and only the latter is enforceable by us on a trip under the Commission's jurisdiction. We further conclude that 14 D.C.C.R. §§340.1 and 340.2 were adopted by the

26/ C.f. United States v. Illinois Central R. Co., 303 U.S. 239, 58 S.Ct. 533, 82 L.Ed. 773 (1938) and United States v. Murdock, 290 U.S. 389, 394, 54 S.Ct. 223, 78 L.Ed. 381, 384 (1933).

27/ Mr. Dembo does not dispute that the Tischler family constituted a party.

28/ "The driver shall collect a fare based upon the rates and charges approved and published by order of the Commission."

29/ "It shall be the duty of the operator to give any passenger so requesting a receipt in writing, signed by the operator and showing his public vehicle operator's license number, the taxicab number, mileage, the amount paid, time and date."

Commission by Order No. 67 and are enforceable by us in situations where the absence of a properly displayed license and identification card adversely impacts on the enforcement of Commission-prescribed rates. ^{30/} Also, we conclude that 14 D.C.C.R. 350.3 (rude, discourteous or disorderly conduct) was adopted by Order No. 67 and is enforceable by us in situations where such conduct is used to collect, or attempt to collect, an improper fare. In a situation such as that described by Mr. Berg, a passenger has no duty to pay a fare known to be incorrect, and such refusal to pay does not confer on a taxicab driver the right to employ abuse or assault as collection techniques.

The Commission specifically finds that Jack B. Dembo did commit the following knowing and wilfull violations of the Compact and this Commission's regulations and orders thereunder:

1. On February 13, 1981, Mr. Dembo overcharged Mr. Herman in violation of Title II, Article XII, Section 8 of the Compact and Order Nos. 91 and 2067.
2. On said date Mr. Dembo refused to provide a receipt to Mr. Herman in violation of Order No. 91.
3. On said date Mr. Dembo failed properly to display the license and identification card issued under subsections (d) and (e) of the District of Columbia License Act, D. C. Code (1973 Ed.) §47-2331, in violation of 14 D.C.C.R. §§340.1 and 340.2 and Order No. 67.
4. On October 10, 1979, Mr. Dembo overcharged Ms. Potts in violation of Title II, Article XII, Section 8 of the Compact and Order Nos. 91 and 1982.
5. On said date Mr. Dembo failed to compute the proper fare for the Potts party in violation of provision (f)(2) of Order No. 91 and Order No. 1982.
6. On said date Mr. Dembo provided to Ms. Potts deliberately falsified receipts in violation of Order No. 91.
7. On December 2, 1980, Mr. Dembo overcharged Dr. Fogelman in violation of Title II, Article XII, Section 8 of the Compact and Order Nos. 91 and 2067.
8. On said date Mr. Dembo failed to compute the proper fare for the Fogelman party in violation of provision (f)(2) of Order No. 91 and Order No. 2067.

^{30/} We do not mean to imply that this jurisdiction in any way preempts another agency of the District of Columbia from enforcing D. C. Regulations on intra-District and interstate trips.

9. On April 5, 1980, Mr. Dembo overcharged Mr. Tischler in violation of Title II, Article XII, Section 8 of the Compact and Order Nos. 91 and 2067.

10. On December 8, 1980, Mr. Dembo conducted himself in a rude, discourteous and disorderly manner in disregard of the safety, comfort and convenience of Mr. Berg by verbally abusing and physically assaulting Mr. Berg in furtherance of a demand and attempt to collect a fare based upon rates and charges other than those approved by the Commission in violation of 14 D.C.C.R. §350.3 and Commission Order No. 67.

11. On May 4, 1979, Mr. Dembo overcharged three passengers including Dr. Ende in violation of Title II, Article XII, Section 8 of the Compact and Order No. 1982. 31/

12. On said date Mr. Dembo provided to Dr. Ende and Dr. Thomas A. Perrino incomplete receipts in violation of Order No. 91.

13. On May 28, 1980, Mr. Dembo overcharged Mr. Haag in violation of Title II, Article XII, section 8 of the Compact and Order Nos. 91 and 2067.

14. On said date Mr. Dembo failed to compute the proper fare for the Haag party in violation of provision (f)(1) of Order No. 91 and Order No. 2067.

15. On February 7, 1981, Mr. Dembo overcharged Mr. Pera in violation of Title II, Article XII, Section 8 of the Compact and Order Nos. 91 and 2067.

16. On September 17, 1980, Mr. Dembo undercharged Mr. Creech in violation of Title II, Article VII, Section 8 of the Compact and Order Nos. 91 and 2067. 32/

Respondent has been counseled several times about the proper application of interstate rates and the need to observe Commission regulations. Under the circumstances, the Commission concludes that

31/ Assuming that these passengers were not a "party," the correct fare was \$6 not \$7.50 apiece.

32/ Inasmuch as the blank receipt alleged to have been given by Mr. Dembo to Mr. Creech was not produced we make no finding on that charge.

all remedies available to sanction Jack B. Dembo for the above-described violations should be exercised.

One further comment is required. A review of our records shows that \$1,051.80 has been expended to date for transcripts and witness fees in this case while respondent has paid only \$300 toward such costs. Pursuant to Title II, Article XII, Section 19 of the Compact, respondent shall be assessed an additional \$751.80 to cover the balance of costs to date.

THEREFORE, IT IS ORDERED:

1. That respondent Jack B. Dembo is hereby directed to cease and desist from engaging in the transportation of passengers by taxicab from one signatory to another within the confines of the Metropolitan District.

2. That respondent Jack B. Dembo is hereby directed to cease and desist from displaying in any taxicab operated by him the rates prescribed by this Commission for the transportation of passengers by taxicab from one signatory to another within the confines of the Metropolitan District and is further directed to display conspicuously in lieu thereof a sign no smaller than four inches by six inches stating "This driver is forbidden to operate in interstate service by order of the Washington Metropolitan Area Transit Commission."

3. That the staff of the Commission is hereby directed to pursue in the United States District Court for the District of Columbia or other court of competent jurisdiction such civil actions as may be appropriate to secure respondent's compliance with the mandates of this Order.

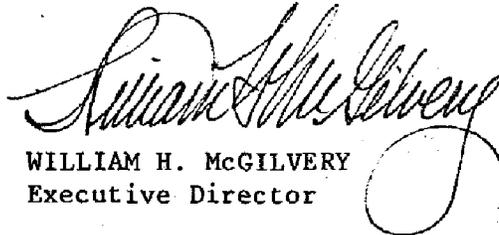
4. That the staff of the Commission is hereby directed to prosecute before the District of Columbia Hacker's Appeal Board the violations found herein with a view toward obtaining the revocation or suspension of respondent's taxicab driver's identification card and his public vehicle license.

5. That the staff of the Commission is hereby directed to refer this file to the Corporation Counsel of the District of Columbia for prosecution under Title II, Article XII, Section 18(d) of the Compact or such other provisions of the law as the Corporation Counsel may deem pertinent.

6. That respondent Jack B. Dembo is hereby assessed an additional \$751.80 and is directed to deliver said sum to the office of

the Commission no later than 12 noon on the thirtieth day after the date of service of this Order.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:



WILLIAM H. MCGILVERY
Executive Director

(a). Records

The driver of each taxicab, whether owner or employee, shall keep a daily manifest dated and signed by the driver upon which he shall enter for each engagement the points of origin and destination, odometer reading at origin and destination, the fare collected and the number of passengers. The manifests shall be preserved and be available for examination by the Commission for a period of one year.

(b). Inspection

The duly authorized representatives of the Washington Metropolitan Area Transit Commission shall have the right at any time, after first displaying their identification to the operator, to enter into or upon any taxicab for the purpose of ascertaining whether rates, charges, and regulations are being complied with and observed.

(c). Rates

The driver shall collect a fare based upon the rates and charges approved and published by order of the Commission.

(d). Equipment

Every taxicab shall be equipped with an odometer, properly installed, maintained in good working order and exposed to view. No taxicab shall be operated in interstate taxicab service while such odometer is out of repair or disconnected. Such odometer shall be considered out of repair if it fails to register accurately within a 10% tolerance factor.

(e). Fare Receipt

It shall be the duty of the operator to give any passenger so requesting a receipt in writing, signed by the operator and showing his public vehicle operator's license number, the taxicab number, mileage, the amount paid, time and date.

(f). Computing Fare

(1) When two (2) or more passengers travel together as a group in a taxicab to the same destination, they shall be considered as a "party" and the fare shall be computed from point of

origin to final destination, and the Extra Passenger Charge shall be collected for all passengers over one (1).

(2) When two (2) or more passengers travel together as a group in a taxicab to different destinations, they shall be considered as a "party" and the fare shall be computed the same as in (f).(1) above.

(3) When two (2) or more passengers travel together not as a group in a taxicab to the same or different destinations, they shall not be considered as a "party" and individual fares will be collected. The first person engaging the taxicab has control of the taxicab, and other persons will be allowed to use the taxicab only upon the permission of the first passenger; provided, that the passengers are so advised before beginning the trip.

(g). Display of Rates

A legible and understandable sign (or signs) shall be displayed in each taxicab, clearly visible to each passenger, giving a description of the rates and charges approved by the Washington Metropolitan Area Transit Commission.

2. In the event any existing regulation, heretofore prescribed by Order No. 67 [namely the regulations set forth in 14 D.C.R.R., chapter III], is in conflict with regulations herein prescribed, the regulation herein prescribed shall govern.