



TRAFFIC COMMISSIONER'S DECISION

MERITRULE LIMITED

LICENCE NUMBER PK0002520

AND

FORMER TRANSPORT MANAGER – MARK WARREN

AND

CLASSIC ROUTEMASTERS LIMITED

LICENCE NUMBER PK1144925

PUBLIC PASSENGER VEHICLES ACT 1981

Decision

Meritrule Limited, Licence No. PK0002520

1. Pursuant to adverse findings under Section 17(3)(aa), (c) and (e) of the Public Passenger Vehicles Act 1981, Meritrule Limited no longer meets the mandatory requirements of Section 14ZA(2) to be of good repute, of appropriate financial standing and professionally competent. Accordingly, the Licence is revoked with immediate effect.
2. Meritrule Limited and Mrs Jane Jones are disqualified from holding or obtaining an Operator's Licence or being involved in an entity that holds or obtains such a Licence in Great Britain for a period of 10 years from the date of this Decision pursuant to Section 28 of the Transport Act 1985.
3. Upon a finding that the former Transport Manager, Mark Warren, no longer satisfies the requirements of Section 14ZA(3) to be of good repute in accordance with Schedule 3 of the Public Passenger Vehicles Act 1981 and the finding that he is unfit to manage the transport activities of an undertaking, Mark Warren is disqualified for a period of 3 years with immediate effect from engaging in the role of Transport Manager in any Member State. The disqualification commences at 23:45hrs on 30 September 2018. It is not appropriate to set rehabilitation measures at this time but Mr Warren has liberty to apply for further details in the future.

Classic Routemasters Limited

4. Pursuant to adverse findings under Section 17(3)(aa), (b), (c) and (e) of the Public Passenger Vehicles Act 1981, Classic Routemasters Limited no longer meets the requirements of Section 14ZA(2) to be of good repute, of appropriate financial standing and professionally competent. Accordingly, the Operator's Licence is revoked with immediate effect.
5. Pursuant to Section 28 of the Transport Act 1985, Classic Route Masters Limited and Miss Melanie Zetterlund are disqualified from holding or obtaining an Operator's Licence or being involved in an entity that holds or obtains a Licence in Great Britain for a period of 3 years from the date of this Decision.

Background

6. Classic Routemasters Limited ("CRM") has held an Operator's Licence since 27 July 2016 authorising the use of 6 vehicles. At that time, 6 discs were issued. The nominated Transport Manager was Michael Cannon. As a pre-condition of grant, an undertaking was offered and accepted that proof of financial standing on average over 3 months would be lodged with Central Licensing Office in Leeds by 31 January 2017. During 2017, correspondence was received from the Director, Miss Zetterlund, including 2 discs with a request for a voluntary reduction to 4 vehicles. However, no evidence of financial standing was received throughout 2017. On 27 November 2017, Miss Zetterlund made an on-line application to add an additional Operating Centre at Mill Stream Farm, 17 Brighton Road, Salfords RH1 5BT. This required additional information before the application could be considered. That information was provided subsequently, but was held in abeyance in light of the on-going issues.
7. On 21 January 2018, CRM lodged a TM1 application form and CPC certificate nominating Mark Warren as the new Transport Manager. Prior to that, no indication of the resignation of Mr Cannon was received from either that person or the Operator.
8. CRM bank statements were not received until 7 February 2018 and then the average was insufficient for even one vehicle. The Licensing Caseworker noted that Mr Warren was the existing Transport Manager for Meritrule Limited, which also has the same Salfords Operating Centre address as given above. In all the circumstances, I called CRM to Public Inquiry and Mr Warren was invited to attend as a witness.
9. The Public Inquiry commenced on 23 April 2018 and was adjourned part-heard for reasons set out in the letter dated 24 April 2018, namely:
 - a) *The evidence today by Miss Zetterland that 'one of my colleagues' is Paul Jones. This related to the application in November 2017.*
 - b) *The major shareholder is now Jane Jones/Yourtransport Group Ltd and links to Meritrule Ltd.*
 - c) *The links with Hireyourtransport.com (Paul Jones), including the loans on 6 April 2018 and Meritrule Ltd.*
 - d) *Black Velvet decision attached.*

I also issued a number of directions:

1. *The Operator shall produce evidence of how all bookings have been met since the grant of the licence.*

2. *The Operator shall produce the roller brake test printout for 499 YMK on 22 February 2018, together with the maintenance provider's invoice.*
3. *The above are to be received in the Office of The Traffic Commissioner, Eastbourne, no later than 16.00hours on 16 May 2018.*
4. *The adjourned hearing shall also consider the possibility of 'fronting' for Paul Jones - Fronting' was defined in the case of 2012/071 Silvertree, where the Upper Tribunal stated: '... 'fronting' occurs when appearances suggest that a vehicle, (or fleet), is being operated by the holder of an operator's licence when the reality is that it is being operated by an entity, (i.e. an individual, partnership or company), which does not hold an operator's licence and the manner in which the vehicle is being operated requires, if the operation is to be lawful, that the real operator holds an operator's licence.*
10. At this time, Meritrule Limited had already been called to a Public Inquiry, which was due to take place on 22 May 2018. This arose from a number of concerns. On 22 November 2017, an on-line application was made to increase the vehicle authorisation from 2 vehicles to 6 vehicles. The evidence of financial standing was in the name of the sole Director, Mrs Jane Jones, and not in the name of the Limited Company. As no response was received to enquiries, the application was refused. Further, as I was concerned the Company may no longer be of appropriate financial standing, propose to revoke letters were sent out. A telephone call was received in the office on 5 February 2018 from Paul Jones requesting an extension to provide the financial evidence due to (a) family bereavement and (b) his Mother being away. The extension of time was granted under delegation. However, on 6 February 2018, Yourtransport Group Limited was incorporated with Mrs Jones as the sole director and shareholder. On 20 February 2018, Yourtransport Group Limited became the majority shareholder in CRM.
11. In a letter dated 26 February 2018, Mrs Jones states that she had tried to change the name on her account to Meritrule Limited but the bank had refused to do so and she had opened a new account in the company name. The letter included an on-line statement in the name of the Limited Company showing deposits on 26 February 2018 to meet the financial standing requirement. This does not meet the financial standing requirement on average over 3 months. It also indicates that to that date, the Limited Company did not have a bank account at all. A review of the current position on the Licence noted that on 3 March 2017 Mrs Jones had given the Central Licensing Office permission for her son Paul Jones to be the nominated contact for her Licence. Further checks were then done and links found to my written decision in relation to Black Velvet Travel Limited and Western Greyhound Limited (see pages 53 to 61 of the Meritrule hearing bundle). The Licensing Caseworker noted that I had included in my decision that if Adam Paul Smith/Paul Jones sought to be involved in Operator Licensing, it must be referred to a Traffic Commissioner.
12. Companies House shows that Paul Jones was the sole Director of Hireyourtransport.com Ltd until 1 May 2018, when Mrs Jones took over that position. Paul Jones had been the shareholder of this company from 12 July 2016 until 1 February 2017, when Mrs Jones became the sole shareholder. The company website and Facebook pages appeared to show that they hire coaches and buses in London and across the South East and employ drivers, bus cleaners, bus conductors etc. It was also noted that Meritrule failed to notify the appointment and resignation of Philip Michael Bannister as a Director (18 .1. 18 – 18.4.18). It did so despite clear reminders it needed to do so on recently signed forms (see page 18 and 29 of the Meritrule bundle). Mr Bannister is a former director of Earlswood Coaches Limited. For all these reasons Meritrule was called to Public Inquiry. On 23 April 2018, I co-joined the CRM Public Inquiry with that of Meritrule, with them both to attend on 22 May 2018. I did so in the interests of fairness, so that issues of 'fronting' were dealt with collectively.

The Hearings

13. On 22 May 2018, the Solicitor representing CRM and previously representing Meritrule Limited had to withdraw due to potential conflicts of interest. Accordingly, I adjourned the cases to Tuesday 24 July 2018 at 10:00hrs. The same day, I suspended both Operator Licences until the reconvened hearing. A copy of my reasons for that decision is attached marked 'Appendix A'.
14. The hearing reconvened on 24 July 2018 in my Tribunal Room at the Office of the Traffic Commissioner, Ivy House, 3 Ivy Terrace, Eastbourne BN21 4QT. The only person in attendance was Mark Warren, who by now was formally called as the former Transport Manager of Meritrule Limited (having resigned since the last hearing). CRM lodged a Licence surrender request in advance and returned the vehicle discs. I said that I would consider the surrender application at the Public Inquiry. Miss Zetturlund told my office that she would not be attending and sent through a GP appointment card. This does not meet with the requirements of the Senior Traffic Commissioner's Statutory Guidance and Statutory Directions No. 9 on adjournments, which would require confirmation that the individual was unfit to attend a hearing. Miss Zetterlund has said that she understands that a decision may be made in her absence but that she wishes to focus on her health at this time.
15. Meritrule Limited indicated to Mr Warren that it intended to surrender its Licence as set out in his letter to my office dated 30 May 2018. However, no such request has been received from the company. Further, all attempts to contact Mrs Jones or Mr Jones since 22 May 2018 have been met with a wall of silence.
16. The Public Inquiry for Meritrule Limited and CRM reconvened and concluded on 24 July 2018. I heard oral evidence from Mr Mark Warren. I confirmed that I would endeavour to issue a written decision within 14 days. Regrettably, other work commitments have delayed things slightly.

Approach

17. I remind myself of the importance of clarifying my approach at the outset where there is a sole Director, as is the case here. In such circumstances, there is clear and consistent case law from the Upper Tribunal that I am entitled to pierce the corporate veil to the extent that the conduct of the sole Director effectively is the conduct of the Limited Company and repute/fitness is determined accordingly. Such an approach has received approval from the appellate tribunal on a number of occasions, such as 2013/08 Vision Travel International Limited and 2013/61 Alan Michael Knight.

Evidence of Mr Warren on 24 July 2018

18. Mr Warren first met Paul Jones when working for Busesetc in Croydon. Paul Jones was the General Manager and Mr Warren worked as an administrator in the office, after an earlier period employed as a driver. Mr Warren then left to join another Operator who put him through his CPC examination. Mr Warren resigned from that post in approximately July 2017 with a view to setting up his own Consultancy. Upon advice, he decided to gain some wider experience as a transport manager first. Paul Jones approached Mr Warren in approximately May 2017 as he was looking for a transport manager for a new venture. Mr Warren subsequently agreed upon receipt of verbal assurances that he would have effective control of the transport operations.
19. It was only later that Mr Warren found out Paul Jones 'intended' a brokerage business and his mother was the Director of Meritrule Limited – the Operator for which he would be the Transport Manager. He was told that Meritrule Limited had not had a Transport Manager for a long time, as it had effectively been dormant. Mr Warren signed the TM1 form at the same time as Mrs Jones and Mr Warren sent the paperwork to the Central Licensing Office ("CLO") in Leeds. He was expecting Meritrule Limited to commence trading again and was signed-up as full-time

from approximately September 2017. However, it transpired that there was actually nothing to do because the Operator did not have any vehicles. Whenever he asked Paul Jones when work was starting, he said that they were still waiting to get everything in line. Each time Mr Warren asked he was told simply to be patient. Mr Warren met with Mrs Jones briefly on 2 or 3 occasions. On the last occasion, she was leaving for a short break to recuperate from her illness and told to have all future dealings with Paul Jones. So far as Mr Warren is concerned, Meritrule Limited has not operated any vehicles since he signed the TM1 form.

20. In terms of CRM, Miss Zetterlund approached Mr Warren on Paul Jones's recommendation. After checking Companies House, ensuring on Gov.uk that there was an Operator's Licence and speaking to those in the industry that know her, he agreed. However, alarm bells rang when shortly after she told him of the Public Inquiry. Mr Warren has no explanation why he confirmed current full time employment with Meritrule on the CRM TM1 form dated 19 January 2018. He acknowledges that this was misleading and it should have stated that Meritrule was not currently operating but he had committed those hours to it.
21. Mr Warren told me that it was always his understanding that Hireyourtransport.com is a brokerage. To his knowledge, CRM only operated on 8 March 2018. He has taken Miss Zetterlund and Mr Jones at their words that they were not operating. Mr Warren has no idea where the vehicle discs have been for either Operator throughout the period with which he has been involved with them. At no time did he check the company web site or Facebook pages or make any wider enquiries for independent corroboration that indeed they were not operating. Further, he did not seek custody of the vehicle discs to ensure effective management of non-transport operations.
22. Mr Warren had seen the coach with Hireyourtransport.com livery. He told me it is an Earlswood Coaches Limited vehicle. It was shown to him as proposed branding by Mr Jones. Mr Warren was unable to help me with the registered keepers showing Hireyourtransport.com and Meritrule Limited for the known linked vehicles.
23. Mr Warren acknowledged that the website and Facebook pages around 17 December 2017 would put him clearly on notice that Hireyourtransport.com was very much in business and potentially operating vehicles, hiring drivers, bus conductors etc. I put it to him that it would be unusual for Mr Jones to broker business for the benefit of Earlswood Coaches Limited when his Mother had a perfectly good Operator's Licence. In the end, Mr Warren simply said that he felt that he had been 'hung out to dry' by Mr Paul Jones.

Conclusions

24. Whenever I consider a 'fronting' case, I always ask myself, what is the mischief? The mischief in this case is the fact that Paul Jones has been in the Traffic Commissioners' radar since the Black Velvet/Western Greyhound decision dated 9 November 2015. The addendum to that decision at paragraph 39 states, "*If Mr Adam Paul Smith (also known as Paul Jones) date of birth 21 June 1983 applies to be involved in Operator Licensing in Great Britain in any guise, the application must be referred to a Traffic Commissioner or Deputy and cannot be determined under delegated authority*". There is strong and cogent evidence to infer that Ms Zetterlund and Mrs Jones are fronting for Paul Jones. I have received limited contrary evidence from Ms Zetterlund and none from Mrs Jones, since these issues were first raised with CRM on 23 April 2018. The indicators are:-
 - Entries in the CRM bank statements which directly infer vehicle operation e.g. payments for fuel and drivers. By e mail dated 16 May 2018, Ms Zetterlund sent some information to 'explain' these entries. However, in the absence of oral evidence they are self-serving. Further, there was nothing of merit to explain the transactions with Hireyourtransport.com.

- Substantial payments from Hireyourtransport.com to Mrs Jones, over the period when it is said that Meritrule is not operating.
- The registered keepers of associated vehicles.
- The content of the Hireyourtransport.com website and Facebook pages. By way of example, the vehicle shown on page 81 of the Meritrule bundle (UWR498) was previously specified on Western Greyhound's Licence. It has not been associated with any Licence since. However, DVLA records show Meritrule acquired the vehicle on 9 November 2016 and disposed of it to Yourtransport Group Limited on 12 February 2018.
- The substantial mileage on 499YMK between MOT on 1 February 2018 and its 'first use' PMI on 20 February 2018.
- CRM never became the registered keeper of 499YMK. DVLA record show the registered keeper until 12 February 2018 was Meritrule Limited. Thereafter it is Yourtransport Group Limited. All Ms Zetterlund had was the V5C/2 for its pre cherished plate VRM, even though she says CRM acquired it with the cherished plate.
- The location of the vehicle discs throughout the relevant period remains unclear.
- The absence of engagement with my Office by Mrs Jones.

25. I can only give limited weight to the oral evidence of Miss Zetterlund because she has not taken part in the Inquiry hearing on 24 July 2018 to have that evidence further tested. I take the failure of Mrs Jones to partake meaningfully in the process at all a real concern. I appreciate that she is said to have been unwell. However, these are serious matters and throughout, save for a short period where Mr Philip Bannister was also added, she has been the sole Director of Meritrule. Further, the chronology above shows that business changes have happened in her name in the intervening period. If she did not want to appear, she could have authorised her son, Mr Paul Jones, to come back and speak on the company's behalf and bind it on any decision making. Mr Jones was made fully aware of this at Meritrule's first hearing. CRM could also have proffered him as a witness when it came back but it did not attend. In light of Meritrule's complete failure to communicate with my office, I take the silence firstly as an aggravating feature and secondly as a tacit admission of unacceptable practises. The consequences of adverse findings at this Public Inquiry are clearly set out in the Call-In Letter. Further, the evidence of current financial standing for Public Inquiry purposes has never been lodged. I therefore have no evidence that Meritrule Limited remains of appropriate financial standing.

26. There is clear Upper Tribunal authority that those engaged in 'fronting' should expect their good repute to be found lost and the Licence revoked. It is the ultimate breach of trust. I see no good reason to depart from that approach. Even if I am wrong on 'fronting', the good repute of both Operators is still lost because of their lack of transparency and proper record-keeping. The Licensing conditions and undertakings are clear on what is required and a Traffic Commissioner is entitled to receive such information as directed. The documentation received from CRM since April 2018 has been limited at best and still does not assist me with the concerns set out in the call in letter or my decisions made on 23 April 2018 and 22 May 2018. Accordingly, I have reached the final Decision set out in paragraphs 1 and 4 above.

27. In T/2010/29 David Finch Haulage the then Transport Tribunal said:


"The principles that derive from these and other cases on the point can be simply stated. The imposition of a period of disqualification following revocation is not a step to be taken routinely, but nor is it a step to be shirked if the circumstances render disqualification necessary in pursuit

of the objectives of the operator licensing system. Although no additional feature is required over and above the grounds leading up to revocation, an operator is entitled to know why the circumstances of the case are such as to make a period of disqualification necessary. Additionally, periods of disqualification can range from comparatively short periods to an indefinite period, and can be confined to one traffic area or be extended to more than one”.

28. Mr Paul Jones’s history is clearly set out in my decision of November 2015. Mr Jones has chosen not to apply for an Operator’s Licence in his own right. Mr Jones has endeavoured to use a brokerage to suggest transparency and lawful conduct. However, that is not the conclusion the evidence leads me to for the reasons set out above. Operators must take great care to ensure that their operations are lawful and safe, with accurate records kept, including where work is sourced via brokerage arrangements. Any Operator found to be ‘fronting’, particularly where that fronting is for an individual who may be in difficulties obtaining a Licence, should not be surprised when robust action is taken. It is important that all ‘fronting’ is eliminated to protect the legitimate commercial vehicle industry, both PSV and HGV. I therefore make no apology in making the example of these two Operators and their Directors. In particular, Mrs Jones has been ‘fronting’ in a considered way and for a longer period. The ‘fronting’ is not just directly through Meritrule but also by assisting a purported veil of legitimacy through directorship and shareholdings in linked entities. A deterrence message is clearly required. Anyone else tempted to assist in a similar way cannot say they are taken by surprise if a similar fate lands at their door.
29. On my findings, Mr Jones is found to be a *de facto* and shadow Director. He was not called on that basis and therefore I have not made a formal disqualification order. However, if he applies for an Operator’s Licence in the future, I again make it clear that that must be considered by a Traffic Commissioner or Deputy and not under any delegated authority. Further, he will need to address all the concerns which are set out in this written as part of that process.
30. Accordingly, I have reached the decision set out in paragraphs 2 and 5 above.

Mr Warren, Transport Manager

31. Mr Warren has allowed the use of his name to provide a legitimate front to these two Operators. Mr Warren failed to take any meaningful steps to satisfy himself that these Operators were not trading. He should have notified CLO immediately his name was associated with the Licences that he was not performing any duties in light of the non-trading. He should also have made it his business to ensure that he had custody of the vehicle discs or that they were returned to CLO. Instead, the evidence I heard is such that it would have been open for me to find collusion on his part. I have stepped back from doing so, just. I have given Mr Warren credit for attending the July hearing when nobody else did and reduced his period of disqualification accordingly. He also answered my questions directly, albeit a little confused on occasion. I have accepted this time that that Mr Warren was perhaps too trusting of Mr Jones even knowing his background. However, a Transport Manager in name only, which this effectively was, is about as serious as it can be. It is entirely appropriate to remove Mr Warren for a period to protect the reputation of professional Transport Managers, who attend and conduct their business in a diligent manner. Accordingly, I have reached the decision set out in paragraph 3 above.



**Miss Sarah Bell
Traffic Commissioner
London & South East England
9 August 2018**

ANNEX A
IN THE SOUTH EASTERN & METROPOLITAN TRAFFIC AREA



MERITRULE LIMITED
LICENCE NUMBER PK0002520
AND
CLASSIC ROUTEMASTERS LIMITED PK1144925
PUBLIC PASSENGER VEHICLES ACT 1981 (as amended)
TRAFFIC COMMISSIONER'S DECISION

Written confirmation of an oral interlocutory decision 22 May 2018

Meritrule Ltd

Decision

1. Pursuant to adverse findings under Section 17(3)(c) of the Public Passenger Vehicles Act 1981, Licence PK0002520 is **suspended from 23:45 hrs on 22 May 2018** until the conclusion of this Public Inquiry. The vehicle discs must be received personally or by tracked delivery by no later than **16:00hrs on Friday 25 May 2018** at the Office of the Traffic Commissioner, Ivy House, 3 Ivy Terrace, Eastbourne BN21 4QT.

Reasons

2. The adjournment request made late on 21 May 2018 was refused for the reasons set out at that time. The Operator's Solicitor formally withdrew at 09:20hrs today as she was without instructions. My office has had great difficulty contacting Mrs Jones in relation to this Inquiry. I am still without any evidence of financial standing.
3. The only reason I am stopping short of revoking the Licence, is that I am aware Mrs Jones may be at a medical appointment. I say 'may' because I have only seen an email, not the formal appointment letter referred to in that email.
4. The hospital appointment letter and the evidence of financial standing required as set out in the Call-In letter dated 6 April 2018 must arrive by tracked delivery no later than **16:00hrs on Monday 4 June 2018**. Failure for that evidence to be lodged by that date and time will be an aggravating feature in any final determination. Failure to return the vehicle discs by **16:00hrs on Friday 25 May 2018** will also be an aggravating feature in any final determination.
5. The Public Inquiry shall reconvene at **11:00am on 24 July 2018** at the Office of the Traffic Commissioner, Ivy House, 3 Ivy Terrace, Eastbourne BN21 4QT. **It follows that any Solicitors instructed must be available on that date.**

Classic Routemasters Ltd – PK1144925

Decision

1. Pursuant to Section 17(3)(aa) of the Public Passenger vehicles Act 1981, the Licence is suspended from **23:45 on 22 May 2018** until the conclusion of the Public Inquiry. The vehicle discs must be received personally or by tracked delivery by no later than **16:00hrs on Friday 25 May 2018** at the Office of the Traffic Commissioner, Ivy House, 3 Ivy Terrace, Eastbourne BN21 4QT.
2. There is liberty to apply for the Operator via its new Solicitor to seek to vary or cancel the Suspension Order, if so advised.

Reasons

3. The veracity, including availability, of the financial standing remains to be assessed. This is a mandatory ground and goes to the heart of road safety and fair competition. I balance this with the need to ensure fair process and the Operator's Solicitor has withdrawn today for understandable reasons. On balance, the fair way to progress this matter is to allow the adjournment but also to suspend the Licence with immediate effect until the conclusion of the Public Inquiry. Failure to return the vehicle discs by **16:00hrs on Friday 25 May 2018** will also be an aggravating feature in any final determination.
4. The Public Inquiry shall reconvene at **11:00am on 24 July 2018** at the Office of the Traffic Commissioner, Ivy House, 3 Ivy Terrace, Eastbourne BN21 4QT. **It follows that any Solicitors instructed must be available on that date.**



**Miss Sarah Bell
Traffic Commissioner
London & South East England
22 May 2018**