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Seven-year ban for Oakwood

BY MIKE JEWELL ON JULY 29, 2015

LEGAL

Oakwood Travel and director Philip Higgs disqualified from holding an O-Licence for seven years; TC could not trust them to operate compliantly.

Oakwood Travel and its Director Philip Higgs have been disqualified from holding or obtaining a PSV O-Licence for seven years, after Traffic Commissioner (TC) Beverley Bell revoked the company's licence and refused its application for additional vehicles.

The TC has also disqualified Oakwood's former Director and Transport Manager (TM) Frank Steele from acting as a TM for five years.

In addition, she said that she was informed that Mr Higgs had now acquired Nuttalls. She had concerns about that entity and she directed that a call-up letter be sent to that operator citing repute, professional competence and financial standing.

Originally Oakwood Travel Services, which has since changed its name to Catch 22 Buses, trading as Oakwood Travel, had applied to increase the authorisation on its licence from eight to 14 vehicles; and Red Rocket Bus had applied for a new six-vehicle licence.

However, both applications were withdrawn and a further application by Oakwood to increase its vehicle authorisation to 18 vehicles was submitted. The TC had reserved her decision after refusing to hand the case over to another TC (routeone, Court Report, 17 June).

In a written decision the TC said that Mr Higgs also had links with Classic Bus North West, Oakwood Travel Services Ltd, and Classic South Down Omnibus, trading as Classic Yellow Buses.

In regard to Totally Transport, Mr Higgs failed to answer the legitimate questions of the Office of the Traffic Commissioner (OTC). He failed to notify the change of director for Oakwood from Frank Steele to himself in April 2013.

Oakwood failed to answer a question from the TC's office in May 2013 enquiring as to whether there were any outstanding County Court or High Court judgements for that company.

Classic Bus through Mr Higgs failed to respond to her office regarding allegations of service 22 running off route and not running to time.

When the licence application was submitted by Red Rocket on 20 June 2013, there was no reference by Mr Higgs to the fact that he was now a Director of Oakwood and there was no reference at all to that other licence.

When Mr Higgs completed the TM1 form for the Red Rocket application, he made no reference whatsoever to his duties as TM for Classic Bus even though this licence was in existence at the time.

Mr Higgs deliberately chose not to volunteer the information to her at the hearing on 25 July that he had met with Frank Steele that morning at McDonald's. That was a deliberate attempt to either mislead her or to withhold a material fact from her.

Oakwood was also operating another vehicle, namely the vehicle that Frank Steele was operating in Liverpool in addition to the eight operating in Blackpool. Mr Higgs either knew or ought to have known that Oakwood was operating more vehicles than it had authority for.

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The blog that Mr Higgs posted on the internet on 5 September 2014 was a direct attack upon the role of the TC and the O-Licensing regime. When asked to explain the blog once again Mr Higgs was disingenuous. Once he had realised his mistake in criticising the regime to the outside world he tried to backtrack and blame someone else, namely a well-respected and well-established senior member of the specialist trade press.

Service 22 was still running on 19 November 2013, 14 days after it had been cancelled as a registered service on 5 November 2013.

Oakwood had registered service 12 with full knowledge that it needed four vehicles to operate the service properly, and service 22 knowing it needed six vehicles to operate, when in fact the company only had authority to operate eight vehicles.

She considered it to be a

preposterous proposition that Mr Higgs asserted that he thought that he could run registered services without the necessary licence authority. There had been no evidence produced by Oakwood of its own compliance with the registered service particulars for its services. She was told that the services were running on time, but no documentary evidence had been produced in support of that.

In effect Classic Bus and Oakwood were being operated as one entity for a period of time when they were two separate companies, and therefore two separate legal entities, and when there were two separate O-Licences. That operation as one entity was facilitated by and orchestrated by Mr Higgs as Director of both legal entities. Mr Higgs had displayed a complete disregard for which entity operated which vehicles, and suggested that it did not matter who was running the services as long as they were running reliably and punctually.

She had never heard any detailed evidence from Mr Higgs as to why Classic Bus was liquidated, and she had never heard any evidence from him as to whether there were any outstanding County Court or High Court judgments for either him or any of the limited companies that he had been involved with.

Mr Higgs had suddenly found sufficient funds in his private capacity and in his capacity as Director of Classic Bus to buy yet another company, Nuttalls, that holds an O-Licence. Despite having heard an exceptional amount of evidence, she was still not satisfied that there was any transparency whatsoever about the operation of the vehicles and the financial arrangements of Oakwood.

The chances of Mr Higgs either on his own or as a Director of any company ensuring O-Licence compliance were so small as to be wholly discounted. There was nothing about him or about his companies that was in any way transparent.

In regard to Mr Steele, the TC said that he made a deliberate decision not to attend the Public Inquiry on 25 July 2014 when he knew full well that he was required to attend. As he was operating a vehicle in Liverpool, Mr Steele either knew or ought to have known that Oakwood was operating more vehicles than it had authority for.

Mr Steele did not think that it was necessary to deal with the drivers on a regular basis and taking account of the nature and type of operation that was a major failing on his part. He deliberately withheld evidence from her that he had completed an application for a new licence when he appeared before her in September 2014.

As a result she found that he did not display the requisite openness and transparency that was required for licence holders and TMs.

As the nominated TM he took no steps whatsoever to acquaint himself with how many vehicles were needed to operate services 12 and 22 punctually and reliably. That was a core function of a TM, and Mr Steele therefore failed to carry out his TM duties properly and diligently.

As the nominated TM Mr Steele took no steps whatsoever to ensure that the Blackpool Illuminations service was either registered properly as a registered local service, which it should have been based on the circumstances in which it was run, or that its operation fully complied with the excursion or tour provisions.

She was therefore satisfied that neither Philip Higgs nor Frank Steele nor any company in which Philip Higgs or Frank Steele was connected to in any way, as employee, director or shareholder, would comply with the O-Licensing regime.

Put simply she did not trust Philip Higgs, Frank Steele, or any company connected to either of them in any way, including the entity of Oakwood, to operate compliantly.

She concluded that she would be failing in her duty if she did not make an order for the revocation of the licence for Oakwood and the disqualification of the company and of Philip Higgs as a Director.

It would be an affront to the legitimate licensed transport industry to allow this operator to continue in the PSV industry. This was an exceptionally serious case, which struck at the very heart of operator licensing.

In regard to Mr Steele, she said that in disqualifying him as a TM for five years she had taken account of his advanced years. Mr Steele had told her that he wanted to operate one or two vehicles.

However, with regard to his own application for a new licence, she could think of no rehabilitation measures that she could advance either as an applicant operator or as a TM that would adequately deal with the failings. If he wanted to remain in the PSV industry, it must be as a driver only, and not as an operator or TM.

The firm is appealing against the decision and the TC has granted a stay.

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ABOUT AUTHOR

MIKE JEWELL



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