

CALIFORNIA PUBLIC UTILITIES COMMISSION

CITATION FOR VIOLATION OF CALIFORNIA PUBLIC UTILITIES CODE

To: John Brian Kuhn

File: TCP-None Date: April 11, 2023 Citation #: T.23-04-001 Case #: PSG-5865

VIOLATIONS

You are hereby cited for having violated section(s) of the Public Utilities (Pub. Util.) Code and a Commission General Order (G.O.) as described below. These violations occurred on October 29, 2022, in St. Helena California.

- (1) Operated as a charter-party carrier without an operating authority, in violation of Pub. Util. Code section 5371. [1 count]
- (2) Operated a bus without a California Highway Patrol (CHP) inspection in violation of Pub. Util. Code section 5381, G.O. 157-E, Part 4.02, and California Vehicle Code (CVC) section 34501(c) and (e). [1 count]

STATEMENT OF FACTS

The attached investigation summary report documents the violations listed above, which consists of the carrier's records and substantiating documents obtained from other sources.

RESPONSE

You are hereby called upon to answer this citation on or before May 1, 2023. By way of such an answer, you may either:

- Pay a fine of \$3,000.00 pursuant to Pub. Util. Code section 5378. (Submit your check or money order payable to California Public Utilities Commission using the attached *Citation Payment Form*. Upon payment, the fine will be deposited in the State Treasury to the credit of the General Fund, and the Commission staff will deem the matter closed.) or
- (2) Contest this citation by filing an appeal. See attached document "*How to File an Appeal and Instructions for Filing a Notice of Appeal and Certificate of Service for a Citation Appeal.*"

If you fail to respond within the 20 calendar days, you will be in default of the citation and will have forfeited your right to appeal the citation. In addition, your operating authority will be immediately suspended and subsequently revoked, pursuant to Resolution ALJ-187. The Commission may also initiate action through a civil or criminal proceeding to recover any unpaid fine and ensure compliance with applicable statutes and Commission orders.

Rahmon Momoh

Rahmon Momoh Program and Project Supervisor Transportation Enforcement Branch Consumer Protection and Enforcement Division (415) 703-1725

Attachments

CIT-LIC

Enforcement Analyst: Alexander Nera

Case: PSG-5865

INVESTIGATION REPORT

CARRIER:	John Brian Kuhn Doing Business As (DBA) Vine and Barley
AUTHORITY:	Unlicensed
ADDRESS:	
PHONE/EMAIL:	(707) 206-2213
VEHICLES:	One 15-Seat Party Bus: License Plate:
DRIVER/OWNER:	John Brian Kuhn
PL&PD INSURANCE:	Unknown
WORKERS' COMPENSATION INSURANCE:	Unknown
DRUG CONSORTIUM:	None on file

NARRATIVE

On March 21, 2023, I was assigned to investigate John Brian Kuhn, Doing Business As (DBA) Vine and Barley (hereinafter Kuhn), after the St. Helena Police Department impounded his bus for operating without valid authority from the Commission.

VIOLATIONS

The investigation for the date of March 18, 2023, disclosed violations of the following provisions of the Public Utilities (Pub. Util.) Code and Commission General Order (G.O.):

• Operated as a charter-party carrier without an operating authority in violation of Pub. Util. Code section 5371. [1 count]

Pub. Util. Code section 5371 requires all charter-party carriers to obtain a valid operating authority from the commission before engaging in transportation for compensation over public highways in California.

On March 18, 2023, Kuhn's vehicle bearing CA and vehicle identification number was observed by California Public Utilities Commission's (Commission) Consumer Protection and Enforcement Division (CPED) Transportation Enforcement Branch (TEB) Enforcement Analyst Alexander Nera and St. Helena Officer Massella [Attachment 1]. The Commission's Transportation and Licensing Analysis Branch (TLAB) records show that John Brian Kuhn never held authority. Pursuant to Alexander Nera's request, Officer Massella impounded the vehicle [Attachment 2].

• Operated a bus without a California Highway Patrol (CHP) inspection in violation of Pub. Util. Code section 5381, 5374(a)(1)(F), G.O. 157-E, Part 4.02, and California Vehicle Code (CVC) section 34501(c) and (e). [1 count]

Pub. Util. Code section 5374(a)(1)(F) requires the charter-party carrier to maintain its vehicles used in transportation for compensation in a safe operating condition and compliance with the vehicle code and regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety. G.O. 157-E, Part 4.02 requires charter-party carrier's vehicles to be inspected by the California Highway Patrol (CHP), and the carrier must maintain proper documentation of inspections. CHP records show vehicle LIC#

CHP on this bus was on November 11, 2014, while owned and operated by Mathew C. Cordero. There is no record that this vehicle having been inspected by CHP under John Brian Kuhn [Attachment 3].

DECLARATION

I have read the foregoing and know the contents thereof, and declare that the foregoing is true and correct, except as to those matters stated on information and belief, and as to those matters, I believe to be true.

Executed on April 11, 2023 at Sacramento, California

<u>Alexander Nera,</u>

Badge# 35

INDEX OF ATTACHMENTS

Attachment 1	Photo of BUS LIC#
Attachment 2	St. Helena Police Report
Attachment 3	CHP Inspection Report/DMV vehicle registration

Attachment 1









Attachment 2



Public Utilities Commission STATE OF CALIFORNIA Request to Impound

Indicate seating capacity of vehicle (including driver): 12

Indicate number of passengers (including driver): 13

One of the following is required:

- No TCP permit or certificate issued
- o TCP/PSC: _____ (circle one) suspended, revoked, expired, or denied.
- Driver does not possess a valid and current CDL for vehicle operated license class, endorsement, or required certificate

Name of PUC Enforcement Analyst requesting impound: Alexander Nera

(Not required if due to driver not having valid license, endorsement, or certification for vehicle being operated)

Charge one of the following:

CPUC 5411/1037 ref CPUC 5371/1031 - Misdemeanor/Unlawful to operate without proper PUC operating authority.

 CPUC 5411/1037 ref CPUC 5379/1045 - Misdemeanor/Unlawful to operate with suspended, revoked, or expired authority.

In body of citation indicate: "Vehicle impounded per 14602.9 CVC."

Name of person who within 2 DAYS notified the legal owner of the impound by certified mail:

Citing/Arresting Officer Name: W. Massella Allied Agency Case Number: 23-0165 Date: 3/18/2023

> Reason for stop and additional notes on back of this form. Attach this form to CHP 180

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OFFICERS	Routed To 22852 Notice CPUC	Date 03/18/2023 03/20/2023	Routed To	6	Date	N	Totes					

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1480 MAIN ST ST HELENA, CA 94574 707-967-2850 NARRATIVE - Narrative

NOTIFICATION:

On 03/18/2023 at approximately 1227 hours, I was on duty, in full police uniform driving a marked patrol vehicle #281. I was parked on the 600 block of Main St when I heard over the radio the California Public Utilities Commission (PUC) Investigator, Alexander Nera requesting SHPD to conduct a traffic enforcement on a black in color Ford E-450 tour bus (24,23) (1993) operating out of compliance.

INVESTIGATION:

As the bus traveled southbound on Main St and passed my location, I safety entered the southbound lane and conducted an enforcement stop of the bus on Main St and Dowdell Ln.

I performed a driver side's approach and contacted a male adult in the driver's seat, who was later identified by his California Driver's Licenses as, John Brian Kuhn. I informed Kuhn the reason for the stop and Kuhn stated he did not need a TCP permit to operate the bus because he does not go to the airport. I informed Kuhn that a PUC Investigator and a Napa County Investigator would talk to him about the TCP license and vehicle code compliance.

Investigator Nera confirmed the vehicle was operating with no TCP permit or certificate issued and stated the vehicle was in violation of CPUC 5411/1037, ref CPUC 5371-1031- *Misdemeanor/Unlawful to operate without proper PUC operating authority*.

Investigator Nera requested I impound the vehicle per CVC 14602.9.

During the contact on Main St, Kuhn asked Investigator Nera if it would be possible to drive the female passengers back to their rental house (1476 Inglewood Ave) because it was their final stop, and he did not want to leave them stranded on the side of the road. Investigator Nera stated that would be fine and we then followed the bus to 1476 Inglewood Ave.

Once I arrived at the final stop, I request a tow for the bus. Pope Valley Towing arrived on scene and took possession of the bus for a 30 day impound, per 14602.9 CVC. See attached "Authorization to Impound" by Public Utilities Commission of the State of California.

ADDITIONAL INFORMATION:

During my contact with Kuhn, I noticed he had approximately ten (10) female passengers in the rear limo style seating of the bus. I could also see red solo cups in the hands of the passengers and a strong odor of alcoholic beverage emitting from the cabin.

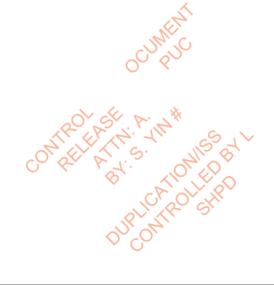
DISPOSITION:

Prepared By:	Date:	Appro	oved By:	Date:	
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[X] BODY CAMERA RECORDED		110			

ST HELENA POLICE DEPARTMENT

1480 MAIN ST ST HELENA, CA 94574 707-967-2850 NARRATIVE - Narrative Page 4 23-0155

Case Closed. Forward a copy to CPUC. ATTN: Alexander Nera.



Prepared By:	Date:	Approved By:	Date:	
93 MASSELLA, WENNER	03/18/2023	21 PETERSON, STEVE	03/20/2023	
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ST HELENA POLICE DEPARTMENT

1480 MAIN ST ST HELENA, CA 94574 707-967-2850 IMAGES FOR CASE 23-0155 Page 1

03/20/2023



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ST HELENA POLICE DEPARTMENT

1480 MAIN ST ST HELENA, CA 94574 707-967-2850 IMAGES FOR CASE 23-0155 Page 2

03/20/2023



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ST HELENA POLICE DEPARTMENT

1480 MAIN ST ST HELENA, CA 94574 707-967-2850 IMAGES FOR CASE 23-0155 Page 3

03/20/2023

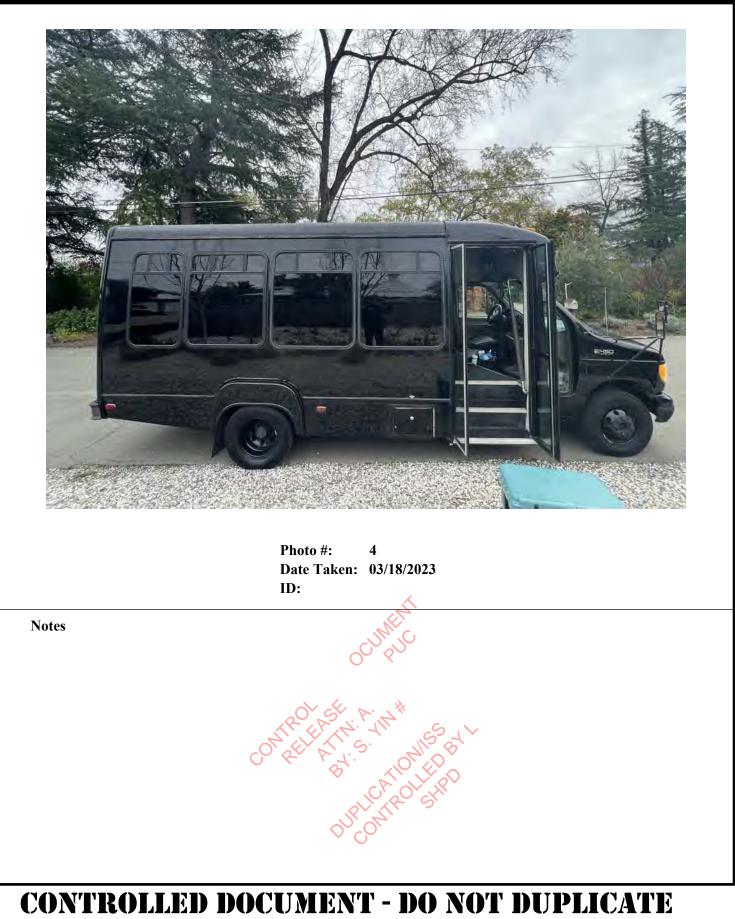




ST HELENA POLICE DEPARTMENT

1480 MAIN ST ST HELENA, CA 94574 707-967-2850 IMAGES FOR CASE 23-0155 Page 4

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An Internationally Accredited Agency

RIGHT SIDE

SUPERVISOR

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REAR

AND LEGAL OWNERS PER 22852 CVC?

REQUIRED NOTICES SENT TO REGISTERED YES

FRONT

W. MASSEL GD

SIGNATURE OF OFFICER TAKING REPORT

LEFT SIDE

DATE NOTIFIED

TOP

NOTICE OF STORED VEHICLE (22852 CVC)

CHP 180S (Rev. 6-15) NOTE: CHP 180 IS FURNISHED TO ALL PEACE OFFICERS BY THE CALIFORNIA HIGHWAY PATROL

A. ATTENTION VEHICLE OWNER

The vehicle identified on the reverse side, registered/owned in your name, was stored pursuant to the provisions of the California Vehicle Code (CVC) by the agency shown below.

Under the provisions of Section 22852 CVC, you have the right to a hearing to determine the validity of this storage. If you choose to contest the validity of this storage, you shall request the hearing in person, writing, or by telephone at the office identified as the Storing Agency on this form.

Your request for a hearing shall be received at the Storing Agency's office within ten (10) days from the date of this notice. If you request a hearing, it will be conducted within 48 hours of the request, excluding weekends and holidays. The vehicle storage hearing is an informal process to determine whether or not a vehicle was lawfully stored.

If the hearing determines the storage to be unlawful, the storing agency will be responsible for the towing and storage charges. Your failure to request or attend a scheduled hearing shall satisfy the Post-Storage Validity requirements of Section 22852 CVC. If you have any questions, or if this vehicle is no longer owned by you, please contact the Storing Agency shown below.

B. CERTIFICATION

I hereby certify that notices with postage prepaid were deposited in the United States Mail, and these notices, of which this is a copy, were addressed to the person named herein.

LOCATION

DATE DEPOSITED

C. NOTICE TO DEPARTMENT OF JUSTICE

Owner cannot be identified

We have been unable to give notice to the owner of record as required by the Notice of Stored Vehicle (22852 CVC) and the vehicle, after 120 hours of storage, has not been returned. Send to Department of Justice, Stolen Vehicle Unit, P.O. Box 903387, Sacramento, CA 94203-3870.

Owner cannot be notified

AVISO DE VEHÍCULOS ALMACENADOS (22852 CVC) CHP 1805 (Rev. 4-13)

NOTA: CHP 180 ESTA PROVEYIDO A TODOS LOS OFICIALES POR LA PATRULLA DE CAMINOS DE CALIFORNIA

A. PROPIETARIO DEL VEHÍCULOS ATENCIÓN

El vehículo identificado en el reverso, propiedad/registrado a su nombre, se almacenó en virtud de las disposiciones del código de vehículos de California (CVC) por la agencia que se muestra a conituación.

Bajo las disposiciones de la sección 22852 CVC, usted tiene el derecho a una audiencia para determinar la validez de este almacenamiento. Si usted decide impugnar la validez de este almacenamiento, deberá solicitar la audiencia en persona, escribir, o por teléfono en la oficina, identificada como la Agencia de almacenamiento en este formulario.

Su petición para una audiencia será recibido en la oficina de la Agencia de almacenamiento dentro de diez 10 días desde la fecha de este aviso. Si usted solicita una audiencia, se realizará dentro de 48 horas de la solicitud, excluyendo los fines de semana y días feriados. La audiencia de almacenamiento del vehículo es un proceso informal para determinar si o no un vehículo legalmente fue almacenado.

Si la audiencia determina el almacenamiento a ser ilegal, la Agencia almacenamiento será responsable de los cargos de remolque y almacenaje. La imposibilidad de solicitar o asistir a una audiencia programada deberá cumplir los requisitos de la Post-Storage de sección 22852 CVC. Si usted tiene alguna pregunta, o si este vehículo ya no es propiedad de usted, póngase en contacto con la Agencia de almacenamiento se muestra a continuación.

STORING AGENCY / AGENCIA ALMACENAMIENTO

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Attachment 3

DRIVER/VEHICLE EXAMINATION REPORT

CHP 407F/343A-Aspen California Highway Patrol Questions regarding this report may be dire to the telephone number listed below. Telephone 707-648-4180							Report Number: CA3OXP000577 Inspection Date: 2014-11-12 d Start Time: 12:00 End Time: 12:59 Insp. Level: V - Terminal Inspection HM Inspection Type: X				
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1232(A) CCR /001	396.3A1	С	1	0		Ν	0	Underhood positive and negative battery terminals corroded			
1232(A) CCR /001	396.3A1	С	1	0		Ν	0	Left and right sway bar to front axle bushing worn			
1232(A) CCR /001	396.3A1	С	1	0		Ν	0	Left front trailing arm bushing not in place			
Special Check	S:							·			

State Information: Beat/Sub Area: 4949; PUC: 34505; Veh #1 Type: 10; Regulated Vehicle: Y; Odometer: 129322; File Code Number: 330714; Fuel Type: G; Passanger Capacity: 15; Bus Type: 1;

This is not a citation. Please read the instructions on the reverse side of this form. Note: * Owner Responsibility

Report Prepared By: R. KHOUIE Χ_____

Badge #: A15727

Χ_

Copy Received By:



CA3OXP000577