

## REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

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**Date of**

**Hearing:** March 25, 2021 (Videoconference Hearing)

**Panel:**

Verlyn Francis, Panel Chair;  
Anu Bakshi and Melina Laverty, Members

**Re:**

**South Central Towing Inc.** (Report No. 7590)  
Mohammad Nassir Hakimi, Director  
Applicant for the Renewal of Tow Truck Owner's Licence Nos. V10-4987501 and V10-4987503, Tow Truck Plate Nos. 6384 and 6385  
AND  
Holder of Tow Truck Owner's Licence Nos. V10-5030639, V10-5030641 and V10-5030643, Tow Truck Plate Nos. 6450, 6451, and 6452  
AND  
**Mohammad Nassir Hakimi**  
Applicant for the Renewal of Tow Truck Driver's Licence No. D09-4836028

**Counsel for Municipal Licensing and Standards:** David Gourlay

**Counsel for Applicant:** Unrepresented

### INTRODUCTION

Mr. Mohammad Nassir Hakimi (Mr. Hakimi) was issued a Tow Truck Driver's Licence No. D09-4836028 on May 31, 2018, which expired on May 31, 2020.

South Central Towing Inc., Mohammad Nassir Hakimi, Director, (South Central) was issued three Tow Truck Owner's Licences, V10-5030639, V10-5030641, and V10-5030643, along with Plate Nos. 6450, 6451 and 6452 on August 31, 2020. Those licences and plates will expire on August 31, 2021. In addition, South Central was issued Tow Truck Owner's Licences V10-4987501 and V10-4987503, along with Plate Nos. 6384 and 6385 on November 22, 2019; expiring on November 22, 2020.

On September 3, 2020, Mr. Hakimi submitted an application for renewal of his Tow Truck Driver's Licence. On October 29, 2020, South Central applied for the renewal of the Tow Truck Owner's Licences which were due to expire on November 22, 2020. As part of the renewal process, Municipal Licensing and Standards (MLS) conducted a routine review of Mr. Hakimi's record of criminal charges and convictions and, based on its findings and Toronto Municipal Code Chapter 545, wrote to Mr. Hakimi and South Central on November 2, 2020 that, MLS was of the opinion that none of the licences should be renewed.

Both Mr. Hakimi and South Central submitted to MLS Requests for Hearing before this Tribunal.

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The issue before the Tribunal was whether or not the hearing on the merits should be adjourned pending the disposition of the criminal matters now before the court; and, if an adjournment is granted, whether the Tow Truck Driver's Licence of Mr. Hakimi should be suspended in the interim.

On March 24, 2021, the Tribunal issued an oral decision to adjourn the hearing on the merits sine die (to no specific date) pending the outcome of the criminal charges outlined in the MLS report filed with the Tribunal and to suspend the Tow Truck Driver's Licence of Mr. Hakimi until the Tribunal orders otherwise. These are the written reasons for the decision.

## **MLS EVIDENCE**

With the consent of both parties, the Tribunal accepted the MLS Report #7590 and the three updates as Exhibit 1 on the motion for adjournment pursuant to s. 15(1) of the Statutory Powers and Procedures Act without having a representative from MLS to testify as to their content.

## **APPLICANT'S EVIDENCE**

Mr. Hakimi testified that he is the sole shareholder and director of South Central. It is a new company that has been operating for two years. South Central owns five Tow Truck Plates. He has two drivers working for him, so three trucks are sitting idle. He hired two employees and he is in the process of hiring more. He hires contractors and they come and go because they are subcontractors. The company has the share of the revenue from those subcontractors but, for the past year, the expenses are way over because of the impact of the COVID-19 pandemic on the volume of business.

He indicated that when he is not driving a tow truck the revenue of South Central will be drastically reduced. He testified that it is very hard not to be a tow truck driver when operating a tow truck business because he has to move tow trucks from one place to the other. He has not found other work to make ends meet because the way towing works, you cannot do a side job -- especially when you are running the company. He is putting in the hours but every month is a struggle. They are making money for rent and gas but it is rough. They are only allowed to work 13 hours daily.

Prior to becoming a tow truck owner and driver, he was an automotive technician at Honda. He has a wife, a 9-month old baby, and another one on the way.

Mr. Hakimi also testified that because of the pandemic, he was told his next court date might be the end of the year since more serious cases are ahead of his and there still has to be a crown attorney assigned to his case.

## **MLS SUBMISSIONS**

Mr. Gourlay submitted on behalf of MLS that the reason for the request for an adjournment is that, if the Tribunal proceeds with this hearing on the merits, it might interfere with the criminal proceedings before the court. He appreciated that interim suspensions are serious but, in this case, the alleged criminal conduct raises issues of compliance with the law and public safety.

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He reiterated that the report is before the Tribunal not for the purpose of proceeding on the merits, but for the Tribunal to accept the authenticity of the charges against Mr. Hakimi. MLS was not requesting the Tribunal to make findings, but is putting forward the report to show that Mr. Hakimi has been charged with these offences.

Mr. Gourlay submitted that the original report dated December 2, 2020 contains some extremely serious charges against Mr. Hakimi. The police record at page 143 indicated that the incident which gave rise to these charges involved a shooting where the victim was injured. The incident raises serious public safety concerns.

On April 13, 2019 at approximately 1:00 a.m., Mr. Hakimi was the driver of a car when the occupants started having a verbal altercation with pedestrians on the sidewalk. Shots were fired from the car that hit one person on the sidewalk. MLS did not allege Mr. Hakimi did the shooting; the passenger in the rear of the car did the shooting. At page 149, it indicated that the vehicle took off westbound on King Street at a high rate of speed. Uniformed officers who were attempting to stop the vehicle observed a male driver through the front driver's side window which was down. Fortunately, the victim survived the shooting. At page 151, there is a description of the car, licence plate and physical description of the driver. At 3:50 a.m., Mr. Hakimi arrived at an underground parking lot where he proceeded to clean the exterior of the vehicle of any evidence.

On June 11, 2019, Mr. Hakimi attended at 14 Division where he was placed under arrest. He was charged with attempt murder, possession firearm without a licence, possession of a firearm knowing its possession is unauthorized, occupy motor vehicle with firearm, possession of firearm with ammunition, use/handle/store firearm carelessly, possession of a weapon, flight while pursued by peace officer, dangerous operation of a motor vehicle, and obstruct justice.

MLS submitted that these charges raise concerns about public safety and the way to address that is to focus on Mr. Hakimi's role as the driver. This was why MLS is not asking for the suspension of the owner's licences. The public risk relates to Mr. Hakimi's Tow Truck Driver's Licence. He deals with the public and drives a vehicle and, in that role, he is a safety risk. Mr. Gourlay submits that the appropriate order will be an interim suspension of the tow truck driver's licence.

Further, even though one may be sympathetic about the impact on Mr. Hakimi during the COVID-19 pandemic, he does have a company that owns five Tow Truck Plates. The industry is down and the economy is down but, when balancing the need to make a living and public safety, public safety weighs very heavily in the balance. He has other options to provide for himself and his family. He has been in business two years and he has a number of tow trucks and at least two drivers. By not asking for the suspension of the owner's licences, MLS is attempting to provide a balance. MLS is trying to leave some aspect of Mr. Hakimi's business intact while balancing that against an extreme case of public safety and violence that took place in the course of driving. The allegations are very serious and are squarely within what a tow truck driver might encounter. In this case, he submits, concerns about public safety should override the financial impact of the suspension on Mr. Hakimi.

On behalf of MLS, Mr. Gourlay concluded his submissions by asking for the interim suspension of Mr. Hakimi's Tow Truck Driver's Licence until the criminal charges are

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disposed of by the court. They also ask that MLS be informed of the disposition of the charges.

## **APPLICANT'S SUBMISSIONS**

Mr. Hakimi submitted that he understands MLS's point, but he would like the Tribunal to understand his continuing to drive his tow truck would not be an issue for public safety. He indicated that his tow truck drivers only specifically attend to tow vehicles of members who join to receive this service rather than vehicles of any member of the public. His operation is not a tow truck sitting around waiting for stuff to happen. He indicated that they have their own membership with South Central and they are not attending outside that. They do not deal with anyone outside of their membership program.

Mr. Hakimi also submitted that when the charges are disposed of, he would contact MLS to finish off the rest of the hearing.

## **DECISION**

The issue before the Tribunal is whether this matter should be adjourned pending the outcome of the criminal charges against Mr. Hakimi. If that adjournment is granted, should the Tow Truck Owner's Licences held by South Central, and the Tow Truck Driver's Licence held by Mr. Hakimi be suspended until the matter can be heard on its merits.

To assist the Tribunal in understanding the allegations in this matter, the parties agreed to, and the Tribunal accepted the filing of Report No. 7590 in accordance with s. 15(1) of the Statutory Powers and Procedures Act. The Tribunal accepted the Report not for the truth of what is contained therein but, in the context of this motion for adjournment, to consider whether the outstanding criminal charges against Mr. Hakimi are relevant.

According to pages 143 to 153 of the report, Mr. Hakimi is facing ten serious criminal charges that arose out of the April 13, 2019 shooting of a pedestrian by a passenger in a car which Mr. Hakimi was driving. It is not alleged that Mr. Hakimi was the actual shooter. It is alleged, however, that he was the driver of the vehicle and that he fled the scene of the shooting by driving at a high rate of speed in the downtown core of Toronto, failed to stop for uniformed police, and then drove the vehicle to an underground parking lot where it was cleaned of any evidence. Police officers were able to obtain the Ontario Licence plate of the vehicle along with a description of the driver and Mr. Hakimi was identified through investigation. Two months after the incident on June 11, 2019, Mr. Hakimi surrendered to police.

In arriving at a decision on this adjournment request, the Tribunal has carefully considered all the evidence before it, along with the submissions of MLS and the Applicant. It was also guided by its mandate set out in part in the Toronto Municipal Code § 545-3.B(3)(c):

Have regard for the need to balance the protection of the public interest with the need for licensees to make a livelihood.

As a tow truck driver, Mr. Hakimi has to deal with the public. The allegations that Mr. Hakimi was in control of a car, and after a passenger shot someone on the street, Mr. Hakimi then drove the car away, raises serious concern. This is compounded by the

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allegations that he drove at a high rate of speed in the downtown core of Toronto and not only refused to stop for police, but swerved around the officers and other motorists to evade the police. In addition, he drove the vehicle to a location where the evidence could be cleaned from its exterior. The subsequent criminal charges showed the seriousness with which these alleged actions were considered.

Against the seriousness of these allegations and the consideration of public safety, that the Tribunal must consider Mr. Hakimi's need to make a living. He is married with a 9-month old child and another on the way. He is the sole shareholder and director of South Central which has five Tow Truck Owner's Licences and five Tow Truck Plates. MLS has agreed that these licences should remain in place pending the hearing of this matter on the merits. If he is so inclined, Mr. Hakimi can continue to make a living by contracting tow truck drivers to operate his five trucks. He has indicated that he already has two drivers. While the Tribunal accepts that the pandemic is causing economic difficulty for many, it does not accept Mr. Hakimi's submission that he must continue to drive a tow truck during the adjournment in order to earn a livelihood. He has only held a Tow Truck Driver's Licence for about two and a half years and, prior to that time, he worked as a technician at Honda.

The Tribunal orders the adjournment of this matter sine die pending the outcome of the criminal charges outlined in the report.

In accordance with the provisions of §546.9.C (2), the Tribunal considers Mr. Hakimi's alleged participation in the circumstances surrounding the April 13, 2019 shooting incident to be sufficient grounds to suspend on an interim basis the Tow Truck Driver's Licence of Mr. Hakimi on the basis that, pursuant to §546.4.A (5),

The conduct of the applicant or other circumstances afford reasonable grounds to believe that the carrying on of the business by the applicant has infringed, or would infringe, the rights of other members of the public, or has endangered, or would endanger, their health or safety.

Having weighed the public interest and Mr. Hakimi's need to make a living, the tribunal orders the interim suspension of the Tow Truck Driver's Licence No. D09-4836028 until ordered otherwise.

Mr. Hakimi shall report to MLS the outcome or decision of the criminal charges against him within five (5) business days of receiving such information.

Upon request, either party may bring the matter back before the Tribunal.

Originally Signed

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Verlyn Francis, Panel Chair  
Panel Members: Anu Bakshi and Melina Laverty, concurring

Reference: Minute No. 50/21

**Date Signed: April 30, 2021**