

ORIGINAL

Decision No. 57256

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RICHARD CHALA, Complainant,

vs.

Case No. 6152

MORRIS GORDON of GORDON'S OUTLET STORE,  
BENNY ROSS of the FIFTH STREET STORE,  
and the LA BARCA MARKET, Defendants.

Jack H. Berkowitz, attorney, for Richard Chala,  
complainant.

Benny Ross and Marvin H. Lewis, attorney, for  
Benny Ross and Leonard Young, copartners,  
doing business as Fifth Street Store,  
defendants.

Nordman, Berenson and Lewis, by Marvin H. Lewis,  
for Morris S. Gordon, doing business as  
Gordon's Outlet Store, defendant.

Francis Gherini, attorney, for Jesus Rico,  
doing business as La Barca Market, defendant.

Joseph W. Goss, City Attorney, for City of Oxnard,  
interested party.

Fred G. Ballenger, for the Public Utilities Com-  
mission staff.

Armand Eichwald, interpreter.

O P I N I O N

By this complaint, Richard Chala, now operating as a  
"passenger stage corporation" between the City of Oxnard and eleven  
named farm labor camps situated within the City of Oxnard and the  
County of Ventura (Decision No. 56551)<sup>(1)</sup> charges that the defendants

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(1) The eleven camps are Pacifico, Buena Vista, Three S, Garcia,  
Blanco, Norte, Mobile, Saticoy, Camarillo, Somis, Lomas. The  
first three are situated within the city limits.

herein, and each of them, are operating as a "passenger stage corporation" as defined in Section 226 of the Public Utilities Code, between the said City of Oxnard and the said named farm labor camps without first having obtained from this Commission a certificate declaring that public convenience and necessity require such operation as provided in Section 1031 of said Public Utilities Code.

A public hearing was held in the City of Oxnard before Examiner Mark V. Chiesa. All parties being present and testimony having been adduced in their behalf, the matter was submitted for decision.

The Commission finds as follows:

That Richard Chala has been operating two buses and one station wagon on a limited scheduled service and also "on-call", between Oxnard and the labor camps named in the margin, since April, 1958, when authority was granted to him so to do; that said camps are all situated within a distance approximately 17 miles from complainant's depot in downtown Oxnard and are inhabited by Mexican Nationals, farm workers, totalling, at times, as many as 14,000.

That Benny Ross and Leonard Young, copartners doing business as Fifth Street Store, Morris S. Gordon, doing business as Gordon's Outlet Store, and Jesus Rico, doing business as La Barca Market, defendants herein, <sup>(2)</sup> now, and at all times herein mentioned, operate retail stores in the City of Oxnard; that the

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(2) Said defendants will, respectively, be referred to as Fifth Street Store, Gordon's and La Barca.

Fifth Street Store and Gordon's sell men's clothing, dry goods and other merchandise, and that La Barca is a grocery store.

That the Fifth Street Store daily operates two station wagons between its store and one or more of said camps, picking up farm workers at the respective camps situated both within and outside the city limits of Oxnard and transporting them to the said store, where they are expected to buy merchandise; that purchases of merchandise at the Fifth Street Store by the passengers are expected and required for the transportation service rendered for them or said passengers are refused return transportation; that the Fifth Street Store does not charge a fare as such, but transports passengers back to camp only when they have purchased goods and merchandise at the store; that free "no strings attached" transportation is not furnished to any person desiring to travel between the camps and Oxnard.

That Gordon's regularly operates two pick-up trucks provided with bench seats, between its store and several of said labor camps, picking up farm workers at various of the named camps and transporting them to its store where they are expected and required to make purchases of dry goods and merchandise in consideration of a return ride back to camp; that passengers are refused return rides if they have not made a purchase at Gordon's; that no free round-trip transportation is offered, as passengers are required to show that a purchase was made.

The only testimony concerning La Barca was given by its manager, who stated that he gave free rides to prospective customers residing in the three camps within the city. No other witness was called to testify concerning this defendant's transportation service.

The Commission having considered the evidence and matters of record, finds and concludes that the requirement by the Fifth Street Store and Gordon's of a purchase of merchandise before a passenger is permitted to board the motor vehicle for a return ride to camp is consideration and compensation paid by said passenger for the transportation; that Benny Ross and Leonard Young, doing business as Fifth Street Store, and Morris S. Gordon, doing business as Gordon's Outlet Store, are each engaged as common carriers for compensation in the ownership, control, operation, or management of passenger stages, as defined in Section 225 of the Public Utilities Code, over public highways in this State between fixed termini or over a regular route or routes not entirely within the limits of a single city, and that neither of said defendants possesses or has received from this Commission a certificate declaring that public convenience and necessity require such operation, as provided in Section 1031 of said Public Utilities Code.

O R D E R

A public hearing having been held, the Commission being fully advised in the premises and having found facts as set forth in the foregoing opinion, and good cause appearing,

IT IS ORDERED:

(1) That Benny Ross and Leonard Young, copartners, doing business as Fifth Street Store, and Morris S. Gordon, doing business as Gordon's Outlet Store, and each of them, are hereby ordered to cease and desist from operating as a "passenger stage corporation" as defined in Section 226 of the Public Utilities Code, over any

public highway in this State and particularly between the following termini:

Between the City of Oxnard, on the one hand, and the following farm labor camps: Pacifico, Buena Vista, Three S, Garcia, Blanco, Norte, Mobile, Saticoy, Camarillo, Somis and Lomas, on the other hand,

unless and until they shall first have obtained from this Commission a certificate of public convenience and necessity authorizing such operation as required by Section 1031 of the Public Utilities Code.

(2) That the Secretary of the Commission is directed to cause personal service of this order to be made on Benny Ross and/or Leonard Young, copartners, doing business as Fifth Street Store, and on Morris S. Gordon, doing business as Gordon's Outlet Store, and the effective date of this order as to each of the respective defendants shall be five days after the date of such service.

(3) That the complaint against Jesus Rico, doing business as La Barca Market, be and it hereby is dismissed.

Dated at San Francisco, California, this 23rd day of September, 1952.

E. Lyn Fox  
President  
Paul J. [unclear]  
Paul J. [unclear]  
William [unclear]  
Theodore [unclear]  
Commissioners