

**ORIGINAL**

Decision No. 75422

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
GOLDEN SEDAN SERVICE, INC., for )  
a certificate of public convenience )  
and necessity to operate a passenger )  
stage between points in San Mateo, )  
Santa Clara, Santa Cruz, Alameda, )  
Monterey, Sacramento and San Joaquin )  
Counties, and respective airports at )  
Oakland, San Francisco, San Jose, )  
Sacramento, Stockton and Monterey. )

Application No. 49376  
(Filed May 16, 1967;  
Amended June 7, 1967  
and September 3, 1968)

Charter Sedan Service, a corporation )  
Complainant

vs.

Golden Sedan Service, a corporation )  
Defendant.

and/or

Ray R. DeNoon III, d/b/a )  
Golden Sedan Service )  
Defendant

and/or

Doye W. Elmore d/b/a )  
Golden Sedan Service )  
Defendant.

Case No. 8828  
(Filed August 5, 1968)

Mercury Transportation Service, )  
a corporation )  
Complainant

vs.

Golden Sedan Service, a corporation )  
Defendant.

and/or

Ray R. DeNoon III, d/b/a )  
Golden Sedan Service )  
Defendant

and/or

Doye W. Elmore d/b/a )  
Golden Sedan Service )  
Defendant.

Case No. 8829  
(Filed August 5, 1968)

Glenn Knapp, Ray R. DeNoon III, Floyd J. Grubbs  
and Jules Pearlman, for Golden Sedan Service, Inc.,  
applicant in Application No. 49376 and defendant  
in Cases Nos. 8828 and 8829.  
C. R. Jernberg, Jr., and Donald S. Tahl, for Charter  
Sedan Service, protestant to Application No. 49376  
and complainant in Case No. 8828.  
Richard A. Allen, Donald A. Moore and Fred H. Van Tassell  
for Mercury Transportation Service, formerly Mercury  
Sedan Service, protestant to Application No. 49376  
and complainant in Case No. 8829.  
Robert Nyhan, dba Bob's V.I.P. Chartered Sedan, for  
Bob's V.I.P. Chartered Sedan, protestant.  
Robert J. Hamilton, for Airporttransit, Inc.; Vaughan,  
Paul and Lyons, by John G. Lyons, for Barrett  
Transportation, Inc.; William T. Meinhold, for  
Greyhound Lines, Inc. (Western Greyhound Lines Division)  
and The Gray Lines, Inc.; Alex J. Gaeta, for Peerless  
Stages, Inc.; Tad Muraoka, for IBM Corporation; Don C.  
Alexander and Handlex, Baker & Greene by Daniel Baker,  
for National Executive Services, Inc.; Thomas M.  
O'Connor, City Attorney, and Paul DiNoia and McMorris  
M. Dow, Deputy City Attorneys, for City & County of  
San Francisco, interested parties.  
Donald M. Grant and Elmer Sjostrom, Counsel, and Lloyd M.  
Humphrey and Hilton Nichols, for the Commission staff.

#### O P I N I O N

By Decision No. 74673, issued herein on September 11, 1968, the Commission (1) set aside submission of Application No. 49376 after rehearing, (2) authorized applicant Golden Sedan Service, Inc., hereinafter sometimes called Golden Sedan, further to amend Application No. 49376 to request an order authorizing the issue of shares of stock pursuant to its amendment to petition to set aside submission on original application and application for order authorizing the issue of stock filed September 3, 1968, and (3) consolidated Application No. 49376, as further amended, and Cases Nos. 8828 and 8829 for hearing. The amendment to petition to set aside submission on original application and application for order authorizing issue of stock filed by Golden Sedan on September 3, 1968, is considered as the amendment to Application No. 49376 authorized by Decision No. 74673.

A. 49376, C. 8828 & 8829 lm

Hearings pursuant to Decision No. 74673 were held before Examiner Cline in San Francisco on October 14, 15 and 16, 1968. The matter was taken under submission subject to the filing of late-filed Exhibit No. 15 on or before October 21, 1968, and the concurrent filing of proposed findings of fact and conclusions of law on or before November 6, 1968. Exhibit No. 15 which was to consist of photostatic copies of the record of disbursements of Golden Sedan Service from January through June, 1968, has not been filed. The proposed findings of fact and conclusions of law submitted by Golden Sedan were filed November 6, 1968. Pursuant to an extension of time the proposed findings of fact and conclusions of law submitted by Charter Sedan Service, hereinafter called Charter Sedan, were filed November 7, 1968. The Commission has taken the matter under submission as of November 7, 1968, without the filing of Exhibit No. 15.

Issues

By reason of Decision No. 73815 herein granting rehearing of Application No. 49376 the only issue to be considered in this application is whether Golden Sedan has the financial ability to perform the passenger stage service for which authorization is sought. A subsidiary issue raised by the amendment of the application authorized by the Commission in Decision No. 74673, is whether Golden Sedan should be authorized to issue 228 shares of its capital stock for the sum of \$12,000.

The two complaints, Cases Nos. 8828 and 8829, are identical except for the complainants. The parties stipulated and the record shows that Golden Sedan operates nine passenger sedans in a limousine service over the routes and between the points specified in Application No. 49376, as amended, on an individual fare basis. The

determination of the issue whether a cease and desist order should be issued by the Commission will be resolved by the granting or denial of Golden Sedan's Application No. 49376, as amended, for a certificate of public convenience and necessity to operate as a passenger stage corporation.

Findings of Fact

Upon a consideration of the record in these proceedings the Commission finds as follows:

1. A public need exists for the on-call passenger stage service as proposed by Golden Sedan in Application No. 49376, as amended, and such proposed service requires authorization in the form of a certificate of public convenience and necessity as a passenger stage corporation.

2. Golden Sedan has had experience in operating limousines under a passenger charter-party permit to and from public airports in the San Francisco Bay area.

3. The services offered by the existing passenger stage corporations, namely, Barrett Transportation, Inc., Greyhound Lines, Inc., and Peerless Stages, Inc., do not satisfactorily meet all the needs of the public as established in Application No. 49376, as amended, and said passenger stage corporations will not provide the service as proposed by Golden Sedan to the satisfaction of the Commission.

4. The limousines and other passenger automobiles to be used in the proposed service will have a seating capacity for no more than eight passengers and a driver, or a total of nine persons.

5. The fares proposed by Golden Sedan per adult passenger will not be likely to reduce the patronage of the existing passenger stages operating to and from the public airports in the San Francisco Bay area.

6. Golden Sedan possesses the experience, equipment and personnel to institute and maintain the proposed services.

7. Golden Sedan was incorporated in the State of California on or about July 19, 1966, with authorized capital consisting of 7,500 shares of common stock having a par value of \$10.00 each and an aggregate par value of \$75,000.

8. Golden Sedan's Articles of Incorporation have never been amended.

9. A total of 532 shares of Golden Sedan's capital stock have been issued. Said shares were issued to Ray R. DeNoon III, Golden Sedan's president, pursuant to a permit granted by the Commissioner of Corporations October 20, 1966. No additional shares of Golden Sedan's capital stock have at any time been issued.

10. Pursuant to consent to transfer granted by the Commissioner of Corporations September 7, 1967, 266 of said 532 shares were transferred to Travel Advisors of Los Gatos, a co-partnership consisting of Bradley J. Honholt, June Honholt, Edward C. Stahl, and Elizabeth W. Stahl. On or about January 15, 1968 Travel Advisors of Los Gatos transferred its interest in Golden Sedan to Ray R. DeNoon III. Consent to transfer to Ray R. DeNoon III of the 266 shares of Golden Sedan's stock representing said interest of Travel Advisors was granted by the Commissioner of Corporations October 9, 1968.

11. Ray R. DeNoon III is the sole owner of Golden Sedan.

12. Eight independent drivers are presently actively engaged in the conduct of Golden Sedan's business on a full time basis. Each has contracted with Golden Sedan to furnish a suitable automobile and to operate the same in the conduct of Golden Sedan's business.

13. Golden Sedan's independent drivers are presently furnishing and operating the following automobiles in the conduct of Golden Sedan's business: a 1964 Cadillac Sedan De Ville, two 1965 Cadillac Fleetwoods, a 1965 Lincoln Continental, a 1966 Pontiac Limousine, a 1967 Cadillac Fleetwood Brougham and two 1968 Cadillac Fleetwood Broughams.

14. The costs of acquisition, maintenance and operation of the automobiles furnished by Golden Sedan's drivers are borne by the drivers and not by Golden Sedan.

15. An additional automobile, a 1963 Lincoln Continental is operated in the conduct of Golden Sedan's business by its president Ray R. DeNoon III.

16. Exhibit No. 11 which is the Statement of Income and Expenses of Golden Sedan for the period January 1, 1968 to September 30, 1968, should be adjusted (1) by increasing depreciation from \$836.89 to \$1,255.34, (2) by increasing rent from \$380 to \$570 and (3) by reducing net income from \$7,713.25 to \$7,104.80.

17. After the adjustments made in Finding 16 the Statement of Income and Expenses of Golden Sedan for the period January 1, 1968 to September 30, 1968 is as follows:

A. 49376, C. 8828 & 8829 1m

Gross Receipts

\$75,752.65

Operating Expenses:

Accounting	\$ 320.00	
Advertising	182.50	
Automotive	1,743.33	
Bank Service Charges	25.09	
Commissions - Operators	43,396.80	
Depreciation	1,255.34	
Dues & Subscriptions	11.45	
Insurance	2,327.97	
Interest	145.30	
Legal	816.60	
License & Permits	115.00	
Miscellaneous	890.64	
Office Expense & Postage	1,080.95	
Rent	570.00	
Salaries - Officers	4,659.59	
Salaries - Clerical	4,190.44	
Supplies	18.01	
Taxes - Payroll	594.31	
Taxes - Transportation	1,740.11	
Telephone	2,784.55	
Utilities	101.49	
Two-way Radio Service	1,678.40	
Balancing adjustment	<u>(.02)</u>	
Total Operating Expense		68,647.85
Net Income		\$ 7,104.80

18. Exhibit No. 9 which is the Balance Sheet of Golden Sedan as of September 30, 1968, should be adjusted (1) by reducing Accounts Receivable Trade from \$3,204.00 to \$3,053.43, (2) by reducing Automotive Equipment from \$5,874.51 to \$1,437.22 by reason of the disposition of the Pontiac which is shown at a net book value on Exhibit No. 12 at \$4,437.29 (the Pontiac was actually disposed of a few days subsequent to September 30, 1968); (3) by reducing Total Assets from \$11,164.95 to \$6,577.09; (4) by increasing Accounts Payable - Trade from \$2,185.08 to \$2,375.08 to reflect the additional amount of \$190 for Rent; (5) by reducing Automotive Contracts Payable from \$4,360.43 to \$1,262.93 by reason of the disposition of the Pontiac; (6) by reducing Total Liabilities from \$8,170.60 to \$5,263.10; (7) by increasing Retained Earnings - Deficit from (\$10,038.90) to (\$11,110.81) to reflect the \$921.34 loss on disposition of the Pontiac

and the \$150.57 reduction in Accounts Receivable Trade; (8) by reducing Net Operating Profit - nine months from \$7,713.25 to \$7,104.80 per Finding 16 above; (9) by reducing Capital from \$2,994.35 to \$1,313.99 by reason of the foregoing adjustments, and (10) by reducing Total Liabilities & Capital from \$11,164.95 to \$6,577.09.

19. The Balance Sheet of Golden Sedan as of September 30, 1968, after the adjustments made in Finding 18 is as follows:

Current Assets

Cash	\$ 180.09	
Accounts Receivable - Trade	<u>3,053.43</u>	\$3,233.52

Fixed Assets

Automotive Equipment	1,437.22	
Office Equipment	<u>1,386.35</u>	\$2,823.57

Other Assets

Refundable Deposits	165.00	
Prepaid Insurance	300.00	
Office Stationery and Supplies	<u>55.00</u>	<u>520.00</u>
Total Assets		\$6,577.09

Liabilities

Accounts Payable - Trade	2,375.08	
Automotive Contracts Payable	1,262.93	
Accrued Transportation Tax	433.80	
Accrued Payroll Taxes	<u>1,191.29</u>	\$5,263.10

Capital

Common Stock	5,320.00	
Retained Earnings - Deficit	(11,110.81)	
Net Operating Profit - Nine Months	<u>7,104.80</u>	<u>1,313.99</u>
Total Liabilities & Capital		\$6,577.09

( ) Deficit figure.



20. Golden Sedan's eight independent drivers have contracted with Golden Sedan for the purchase (subject to authorization by this Commission) of a total of 228 shares of Golden Sedan's capital stock (28-1/2 shares per driver), for a total price of approximately \$12,000, payable in installments of \$50.00 per month per driver over a period of 30 months.

21. Through the sale of the 228 shares of its capital stock Golden Sedan's net worth will be increased to approximately \$13,300.

22. Golden Sedan proposes to use the proceeds realized from the sale of said stock for the following purposes:

- (a) For the acquisition of property.
- (b) For the improvement or maintenance of its service.

23. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purposes specified in Finding 22 above, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

24. Golden Sedan possesses the financial resources to institute and maintain the proposed service.

25. Public liability and comprehensive automobile liability insurance with limits of liability for bodily injury of \$250,000 per person and \$500,000 per occurrence, and for property damage of \$50,000 per occurrence, is now, and at all times material to the complaints in Cases Nos. 8828 and 8829 has been in force with respect to each automobile used and with respect to each driver participating in the conduct of Golden Sedan's business; however, the named insured in such insurance as of the time of the hearing in these proceedings was "Ray DeNoon III, dba Golden Sedan Service", rather than "Golden Sedan Service, Inc."

26. Golden Sedan has operated the service for which it seeks a certificate of public convenience and necessity herein since it was incorporated in 1966.

27. Public convenience and necessity require that the services proposed by Golden Sedan be authorized in the manner set forth in the ensuing order.

28. Golden Sedan has at all times since December 13, 1966 had a charter-party carrier of passengers permit issued by the Commission (No. TCP-395) or had pending Application No. 49376 herein seeking a certificate of public convenience and necessity.

29. Golden Sedan is now operating a limousine service on an individual fare basis in the counties of Santa Clara and San Mateo, in particular, from and to various points in those counties, on the one hand, to and from the San Jose Municipal Airport, the San Francisco International Airport and the Oakland International Airport, on the other hand.

30. The allegations of the complaints in Cases Nos. 8828 and 8829 are not supported by the evidence insofar as the individual defendants Ray R. DeNoon III and Doyce W. Elmore are concerned.

#### Conclusions of Law

Based upon the foregoing findings of fact the Commission concludes as follows:

1. To the extent that it requests that a certificate of public convenience and necessity be granted to Golden Sedan, Application No. 49376, as amended, should be granted as set forth in the ensuing order.

2. Golden Sedan, by virtue of its activities, is a passenger stage corporation.

3. This Commission has jurisdiction over the issuance of Golden Sedan's capital stock.

4. Golden Sedan should be authorized, as set forth in the ensuing order, (1) to issue and sell an aggregate of 228 shares of its capital stock to the independent drivers who are now associated with Golden Sedan and to other independent drivers who subsequently become associated with applicant and (2) to resell to any such persons any of said 228 shares that are issued and sold by Golden Sedan and that are subsequently repurchased by Golden Sedan, the proceeds realized by Golden Sedan from the sale of such stock to be used for the following purposes:

- (a) For the acquisition of property.
- (b) For the improvement or maintenance of Golden Sedan's service.

5. The complaints herein should be dismissed as to defendants Ray R. DeNoon III and Doye W. Elmore.

6. The complaints herein should be dismissed as to defendant Golden Sedan Service, Inc., upon the following conditions:

- (a) That prior to the effective date of the order below Golden Sedan Service, Inc., shall be added, or substituted for Golden Sedan's president, Ray R. DeNoon III, dba Golden Sedan Service, as named insured in the public liability and comprehensive automobile liability insurance referred to in Finding 25 above, and
- (b) That Golden Sedan Service, Inc., shall comply with and observe
  - (1) the service regulations set forth in the order below in providing service pursuant to the certificate of public convenience and necessity which is granted to Golden Sedan, and
  - (2) the conditions set forth in the order below upon which said certificate of public convenience and necessity is granted.

In issuing our order herein, we place applicant Golden Sedan and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return applicant should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of value of applicant's stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

Applicant Golden Sedan is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before July 1, 1972, pursuant to the terms of a subscription agreement substantially in the form of the subscription agreement attached to amendment to petition to set aside submission on original application and application for order authorizing the issue of stock filed herein September 3, 1968, applicant Golden Sedan Service, Inc., is authorized to issue and sell to the independent drivers who are now associated with applicant and to other

independent drivers who subsequently become associated with applicant an aggregate of 228 shares of its capital stock at a price of \$52.63 per share or a total aggregate amount of \$11,999.64 the 228 shares, the proceeds realized by applicant from the sale of such capital stock to be used for the following purposes: (a) the acquisition of property and (b) the improvement and maintenance of applicant's service.

2. Applicant Golden Sedan Service, Inc., is authorized to resell to any such independent drivers any of said 228 shares of its capital stock that are issued and sold by applicant and that are subsequently repurchased by applicant.

3. Applicant Golden Sedan Service, Inc., shall file with the Commission a report, or reports, as required by General Order No.24-B, which order, insofar as applicable, is hereby made a part of this order.

4. A certificate of public convenience and necessity is granted to applicant Golden Sedan Service, Inc., a California corporation, authorizing it to operate as a passenger stage corporation as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

5. In providing service pursuant to the certificate granted in ordering paragraph 4, above, applicant Golden Sedan Service, Inc., shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, said applicant shall file a written acceptance of the certificate herein granted.

Said applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 101-C.

- (b) Within one hundred twenty days after the effective date hereof, said applicant shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A.
- (e) Said applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

6. The certificate of public convenience and necessity issued in ordering paragraph 4 above is granted upon the following conditions:

- (a) That applicant Golden Sedan Service, Inc., use limousines and other passenger automobiles in its service having a seating capacity for no more than eight passengers and a driver, or a total of nine persons; and
- (b) That said applicant obtain from the appropriate local governmental agencies permission for parking its limousines and other passenger automobiles to load and discharge passengers at San Jose Municipal Airport, San Francisco International Airport, and Oakland International Airport.

7. Complaints Nos. 8828 and 8829 herein are dismissed as to defendants Ray R. DeNoon III and Doye W. Elmore.

8. Complaints Nos. 3828 and 8829 herein are dismissed as to defendant Golden Sedan Service, Inc., upon the following conditions:

- (a) That prior to the effective date of this order, Golden Sedan Service, Inc., shall be added, or substituted for Golden Sedan Service, Inc.'s, president Ray R. DeNoon III, dba Golden Sedan Service, as named insured in the public liability and comprehensive automobile liability insurance policy referred to in Finding 25 above, and
- (b) That Golden Sedan Service, Inc., shall comply with and observe (1) the service regulations set forth in ordering paragraph 5 above in providing service pursuant to the certificate of public convenience and necessity which is granted to Golden Sedan Service, Inc., pursuant to ordering paragraph 4 above, and (2) the conditions set forth in ordering paragraph 6 above upon which said certificate of public convenience and necessity is granted.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 11th day of MARCH, 1969.

[Signature]  
President

[Signature]  
[Signature]

[Signature]  
Commissioners

GENERAL AUTHORIZATIONS, RESTRICTIONS,  
LIMITATIONS AND SPECIFICATIONS

Golden Sedan Service, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage between all points within the boundaries of Santa Clara County and points within the Cities of Menlo Park and San Carlos, on the one hand, and the San Francisco International Airport, Oakland International Airport and San Jose Municipal Airport, on the other hand, over the most appropriate routes subject to the following provisions:

- (a) No passengers shall be transported except those having point of origin or destination at one of the following places:
  - 1. San Francisco International Airport
  - 2. Oakland International Airport
  - 3. San Jose Municipal Airport
- (b) When service is rendered on an "on-call" basis, tariffs and timetables shall show the conditions under which such "on-call" service shall be operated.
- (c) Service shall be provided with vehicles seating no more than 9 passengers including the driver.

Issued by California Public Utilities Commission.

Decision No. 75422, Application No. 49376.