

ORIGINALDecision No. 75498

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Charter Sedan Service, a corporation,
 vs. Complainant,

G. I. Taxi Company, a corporation,
 and Defendant,

United Taxi Company, a corporation,
 Defendant.

Case No. 8833
 (Filed August 8, 1968)

C. R. Jernberg, Jr., and Donald S. Tahl, for
Charter Sedan Service, complainant.
Frank Mercurio, for United Taxi Company; and
Peter Aimonetti, for G. I. Taxi Company,
defendants.
H. H. Nichols, for the Commission staff.

O P I N I O N

On August 8, 1968, complainant Charter Sedan Service filed its complaint alleging that:

1. Defendants G. I. Taxi Company and United Taxi Company have the same principals as owners and are generally known as G. I. - United.

2. G. I. - United is an operator of taxicabs, licensed pursuant to ordinances of the City of San Jose, but it does not have authority from this Commission to solicit and transport passengers as a passenger stage corporation on an individual fare basis.

3. G. I. - United has performed transportation of passengers as a passenger stage corporation on an individual fare basis between the San Jose Municipal Airport, on the one hand, and the U. S. military installation at Fort Ord and Sunnyvale, on the other hand.

Complainant requests that the Commission order defendant G. I. Taxi Company and defendant United Taxi Company to cease and desist the transportation of passengers on an individual fare basis and operations as a passenger stage corporation.

Identical answers were filed by both defendants on August 19, 1968.

A public hearing on the complaint was held before Examiner Cline in San Francisco on October 3, 1968. At the conclusion of the hearing the matter was taken under submission.

Sections of Public Utilities Code Involved
in these Proceedings.

"226. 'Passenger stage corporation' includes every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this State between fixed termini or over a regular route...."

* * *

"1031. No passenger stage corporation shall operate or cause to be operated any passenger stage over any public highway in this State without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation,"

* * *

"1034. When a complaint has been filed with the commission alleging that any passenger stage is being operated without a certificate of public convenience and necessity, contrary to or in violation of the provisions of this part, the commission may, with or without notice, make its order requiring the corporation or person operating or managing such passenger stage, to cease and desist from such operation, until the commission makes and files its decision on the complaint, or until further order of the commission.

"1035. Whether or not any stage, auto stage, or other motor vehicle is being, or is proposed to be operated as a passenger stage corporation 'between fixed termini or over a regular route' within the meaning of this part is a question of fact, and

the finding of the commission thereon is final and is not subject to review. Any act of transporting or attempting to transport any person or persons by stage, auto stage, or other motor vehicle upon a public highway of this State between two or more points not both within the limits of a single city or city and county, where the rate, charge, or fare for such transportation is computed, collected, or demanded on an individual fare basis, shall be presumed to be an act of operating as a passenger stage corporation within the meaning of this part."

Findings of Fact

Based upon a consideration of the evidence, the Commission finds as follows:

1. Peter Aimonetti is the President and owner of defendant G. I. Taxi Company and is the owner of 57 percent of the capital stock of defendant United Taxi Company.
2. Frank Mercurio is the President of defendant United Taxi Company.
3. The same individuals are the members of the board of directors of each of the defendants.
4. The same individual is the manager for both defendants, and each defendant pays one half of the total operating expenses.
5. Defendants have the same office, the same garage facilities and the same dispatcher. The taxicab drivers of either defendant will answer the calls from the joint dispatcher.
6. Each defendant operates as a separate corporation, keeps a separate set of books, files separate tax returns, obtains separate operating permits and engages its own independent taxicab drivers.
7. Defendants have separate listings of telephone numbers and a joint advertisement in the classified section of the San Jose telephone directory.

8. On September 1, 1968, a United Taxi driver offered to take five passengers at a fare of \$6 each from the San Jose Municipal Airport to Fort Ord. The five passengers took the trip. A fare of \$6 was collected from the first passenger who completed the trip at Fort Ord. The other four passengers completed the trip at a different location at Fort Ord and paid the fare of \$6 per person and requested receipts. The taxicab driver informed the passengers that he could not give individual receipts for the individual \$6 fares but that he could give only one receipt for \$30.

9. A driver for G. I. Taxi provided transportation in a G. I. Taxi taxicab from the San Jose Municipal Airport to Fort Ord for a group of five passengers on September 21, 1968. A fare of \$6 was collected from each passenger or a total fare of \$30 for the trip. The driver refused to give individual receipts for each \$6 fare but gave one receipt for the \$30 fare.

10. Defendants' taxicab drivers regularly solicit passengers at the San Jose Municipal Airport to take trips by defendants' taxicabs from the San Jose Municipal Airport to Fort Ord.

11. A flat fare of \$30 per trip for one to five passengers is intended to be charged by defendants for transportation by defendants' taxicabs from the San Jose Municipal Airport to Fort Ord. The flat fare is based on the usual metered fare.

12. The fare schedule posted on the window of the defendants' taxicabs is 50¢ for the first 1/5 mile, 10¢ for each additional 1/5 mile and \$5 per hour for delayed waiting time.

13. Fares inside the city limits of San Jose are regulated by the San Jose City Council. The fares for trips outside the City of San Jose are not subject to such regulation, and so far as defendants are aware are not subject to any regulation whatsoever.

14. Neither defendant holds any operating authority from this Commission to operate as passenger stage corporation.

Conclusions of Law

Based upon a review of the foregoing sections of the Public Utilities Code and a consideration of the findings of fact listed above, the Commission concludes as follows:

1. Defendants have operated as passenger stage corporations in transporting passengers on an individual fare basis by motor vehicle from the San Jose Municipal Airport to Fort Ord in violation of the provisions of the Public Utilities Code and should be ordered to cease and desist from such operations.

2. Complainant has not sustained the burden of proving that defendants, or either of them, has operated as a passenger stage corporation between San Jose Municipal Airport and Sunnyvale.

O R D E R

IT IS ORDERED that:

1. Defendants G. I. Taxi Company and United Taxi Company jointly shall cease and desist operations as passenger stage corporations in the transportation of persons on an individual fare basis.

2. Defendant G. I. Taxi Company shall cease and desist operations as a passenger stage corporation in the transportation of persons on an individual fare basis.

3. Defendant United Taxi Company shall cease and desist operations as a passenger stage corporation in the transportation of persons on an individual fare basis.

The Secretary of the Commission is directed to cause personal service of this order to be made upon each of the defendants G. I. Taxi Company and United Taxi Company.

The effective date of this order as to each of said defendants shall be twenty days after the completion of the service upon said defendant.

Dated at San Francisco, California, this 1st day of APRIL, 1969.

William J. Lyons, Jr.
President

Angela

Fred P. Monahan

W. H. H. H. H.

Commissioners