

Decision No. ~~76337~~

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of CARL RICHARD JERNBERG, JR., an)
individual doing business as)
CHARTER SEDAN SERVICE, of Santa)
Clara, for a permit to operate as)
a charter-party carrier of passen-)
gers, (TCP-162).)

Application No. 51013
(Filed March 24, 1969)

C. R. Jernberg, Jr., for himself, applicant.
Handler, Baker & Greene, by Daniel W. Baker,
for National Executive, Inc.; Don G.
Alexander, for National Executive, Inc.;
Lloyd E. Cole, for Peerless Stages, Inc.;
Ralph Mason, for Falcon Charter Service;
and Ralph C. Harmony, for West Valley
Charter Lines, protestants.
P. E. (Gene) Roberts, for Greyhound West,
and W. J. Blair, for San Jose City Lines,
Inc., interested parties.
Gary L. Hall, Counsel, for the Commission staff.

O P I N I O N

Applicant filed on March 24, 1969 for a permit to operate as a charter-party carrier of passengers. The application was protested by several parties and a public hearing was held in San Jose on July 9, 1969 before Examiner Fraser, at which time the matter was submitted.

The applicant was the only witness to testify. His application shows he owns two 1969 Fords; however, the records of the Department of Motor Vehicles indicate a Thomas Burke as the owner. Applicant testified he is purchasing the vehicles from Burke under contract; that Burke advanced the purchase money and retained title to protect his interest; Burke was supposed to have transferred the legal ownership to a bank and the registered ownership to

applicant, but the change of ownership may have been delayed for some reason. The application lists a 36 passenger 1946 G.M. bus and classifies it as leased. Applicant testified that this bus was in public service until June 1969 and is being leased from Burke for twelve months with an option to purchase; the lease payments are \$275 a month and the purchase price of the bus will be \$3,500. He testified that the 1969 Fords were each purchased for about \$4,200 and about \$2,000 is still owed to Mr. Burke on each one. He stated Mr. Burke is not in the bus business and is simply a friend.

Applicant testified he has a driver for each of his 1969 Fords; they lease the vehicles for every day they work; they are independent contractors, not employees; he pays no unemployment insurance or workman's compensation premiums, and no self-employment tax; neither of the drivers have operating authority from this Commission. Applicant testified he considers himself a charter-party carrier in this operation; he dispatches the Fords and a Chevrolet van which he occasionally uses; 70% of his business is to or from the San Francisco International Airport; he transports groups of executives, employees, trainees, or visitors under contract for various industrial firms and airlines; he stated he does not advertise or solicit, although he is still operating under the name of Charter Sedan Service, a corporation, which was declared bankrupt on June 6, 1968. He testified all of his operations are charters, since his customers contact him; he may dispatch his vehicles to the San Francisco Airport four or five times a day over Highway 101 which is the most direct route. Applicant explained that his rates vary, although he recently charged the Western Electric Company \$8.00 per person for transportation to the airport. He admitted that none of

his vehicles have the name of the operator or identifying symbol required by Section 5385 of the Public Utilities Code.

Applicant testified he was operating as Charter Sedan Service, a California corporation, until June 6, 1968, when the corporation was forced into bankruptcy. He testified he continued to operate until March of 1969 when he spoke to a Commission lawyer and was advised he was operating without authority. He then filed the present application for a charter-party carrier permit. The vehicles owned by the corporation were either repossessed or picked up by the Federal Government. Applicant stated he had no knowledge of the February 7, 1969 order of the Bankruptcy Court which required the bankrupt to surrender its certificate to the trustee as an asset. Applicant further testified he obtained two Chevrolet vans in May or June of 1968; these were leased to the corporation along with the 1969 Ford vans applicant acquired in October 1968. Applicant further testified that he used individual drivers who drove their own cars during 1968, when he had no other vehicles available. Applicant advised that only a few customers were left after the bankruptcy and these required only occasional service. He stated the Chevrolet vans are not used to carry passengers, as a rule, since he holds a radial highway common carrier and a highway contract carrier permit in his own name. Applicant was briefly questioned on his assets and regular customers. His replies were evasive and not informative.

Findings and Conclusions:

1. Since mid 1968 applicant has continued to transport passengers as either a passenger stage corporation or a charter-party carrier, without first having obtained the required authorization from this Commission.

2. Applicant leases at least two of his passenger vehicles by the day to individuals who as alleged charter operators transport passengers.

3. None of the lessees hold any operating authority from this Commission.

4. Applicant has held four different types of operating authority issued by this Commission. Applicant has nevertheless alleged that he is not familiar with Commission regulations regarding passenger carriers.

5. Applicant has also disregarded the requirements and orders of the Bankruptcy Court by continuing to operate in the name of the bankrupt, after the bankrupt's business and assets were transferred to the custody of the trustee in bankruptcy.

We further find that applicant does not have the satisfactory fitness to initiate and conduct the proposed transportation services required by Section 5375 of the Public Utilities Code and we therefore conclude that the application should be denied and applicant ordered to cease and desist operations as a passenger stage corporation and as a charter party carrier of passengers.

O R D E R

IT IS ORDERED that Application No. 51013 is denied and that Carl Richard Jernberg, Jr. cease and desist all operations as a passenger stage corporation and as a charter party carrier of passengers unless and until he obtains necessary operating authority.

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

Dated at San Francisco, California, this 28th
day of OCTOBER, 1969.

William Jernberg, Jr.
President

George A. Jernberg
Secretary

Richard J. Jernberg
Treasurer

Vernon L. Jernberg
Commissioners