

Devision No. 84599**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SAN MATEO COUNTY
TRANSPORTATION CO., INC., a cor-
poration dba AAA-OK LIMOUSINE
SERVICE, of San Bruno, for a
permit to operate as a charter-
party carrier of passengers.

Application No. 55026
(Filed July 10, 1974)

John Byrum, Attorney at Law, for San Mateo County
Transportation Co., Inc., applicant.
James B. Brasil, Attorney at Law, for the City and
County of San Francisco, interested party.
Freda Abbott, Attorney at Law, for the Commission
staff.

O P I N I O N

San Mateo County Transportation Co., Inc., filed this application on July 10, 1974. It was scheduled for hearing because applicant was denied a charter permit by Decision No. 82542 dated March 12, 1974 in Application No. 54239. That decision found that applicant operated as a charter-party carrier without authority and ordered it to cease and desist. The same decision denied the application of Milton Henke, Sr. (Henke), for a charter permit (Application No. 54245). Henke has always been identified with the applicant and is now its operations manager.

A public hearing on Application No. 55026 was held on January 9, 10, 30, and 31, 1975, in San Francisco, before Examiner Fraser. Evidence was presented by the applicant, the Commission staff, and the city and county of San Francisco. The application was submitted on briefs received on February 21, 1975.

Henke identified himself as applicant's operations manager, with the responsibility for service, schedules, employees, and maintenance. He testified he has 35 years experience in the operation of limousines, including 17 years as a driver for Yellow Cab Co.

Applicant has three active officers; Henke's daughter is president, his son-in-law is vice president, and his wife is secretary-treasurer. Henke testified that applicant has a monthly gross of \$12,000 to \$18,000 and pays about \$3,000 a month in expenses. He defined applicant's operation as a combined cab and limousine service. Its operating authorities are a city of South San Francisco Business License (Exhibit 31) which expired on December 31, 1974 and classifies the business authorized as an office, and a business license issued September 17, 1974 by the city of Foster City (Exhibit 19). The Foster City license was issued to applicant doing business as Yellow Cab of Foster City, AAA-OK Limousine Service and expired on January 31, 1975.

Applicant placed an agreement (Exhibit 21) dated October 1, 1973 in evidence, wherein applicant agreed to hire a Robert Thompson as operations supervisor and Thompson agreed to list all of applicant's vehicles (including 4 14-passenger vans) under his charter permit (TCP-185). The record does not indicate whether Thompson ever became applicant's manager. The Commission records, of which we take official notice, do not reflect applicant's participation in the Thompson permit, but do show that the Thompson permit was suspended or revoked on November 11, 1973 for failure to maintain adequate insurance coverage on file with the Commission and a notice of revocation was mailed on January 3, 1974 to the holder of the permit. Henke placed an insurance company form dated October 12, 1973 in evidence (Exhibit 22), which states that applicant has purchased the Thompson business and should become an additional insured under the Thompson policy. This exhibit includes a copy of a letter addressed to the Public Utilities Commission in San Francisco dated October 11, 1973, which states that certain vehicles listed under applicant's name are now included under the Thompson policy. Henke testified that applicant was operating in reliance on the Thompson permit. He testified that Thompson phoned him in April or May 1974 to advise that the permit was scheduled for suspension due to lack

of notice of insurance coverage. He immediately phoned the Public Utilities Commission in San Francisco and was told he had nothing to worry about if there was insurance coverage. Henke testified that his drivers do not solicit at the San Francisco Airport; each vehicle is dispatched to pick up a specific passenger who has made a prior reservation. He testified that applicant serves more than 100 customers and provides many services other than transportation to the airport. He refused to accept an operating authority however, which excluded the airport. He reasoned that most other operators in the Bay Area include the airport in their service areas and it would not be fair to restrict applicant.

On cross-examination Henke testified that applicant's 8-passenger limousines serve the San Francisco Airport under authority of the Foster City permit and are exempt from Public Utilities Commission regulation under Section 5353(g) of the Public Utilities Code. Henke admitted that 4 14-passenger vans (Exhibits 1, 2, 21) are dispatched by applicant. He testified these vehicles are operated under the leased Thompson permit (suspended on November 11, 1973 and revoked on January 3, 1974) and that operations will continue. He further testified that most of applicant's income is earned from charters. Henke advised that he has operated as "Yellow Cab of Foster City", "Peninsula Veterans' Cab", and "AAA-OK Limousine Service." The last name has been transferred to applicant.

The Commission staff provided testimony from two San Francisco police officers and placed their reports in evidence. Both officers testified that on October 9, 1974 (Exhibits 2, 3, 24) Henke and two other drivers were waiting in front of the Fairmont Hotel in three Cadillac limousines registered to applicant, to take a group to the Cow Palace. The vehicles had South San Francisco permits which expired in 1972. One officer further testified that on September 2, 1974, a Dodge Maxi-van registered to applicant (Exhibit 25) was loading at the Hilton Hotel. The driver advised he was employed by applicant and operating under Public Utilities

Commission permit TCP-828 (probably should be "282" which was issued to Henke individually and expired in 1973).

The officer testified he reviewed the records in the San Francisco Police Department Taxi Detail, Bureau of Permits, and noted that applicant did not have the for-hire vehicle permit required by Section 128, Part III, San Francisco Municipal Code, and did not have insurance forms on file as required by Section 1080 of the Municipal Police Code. He testified that a letter dated September 6, 1974 (Exhibit 26) was mailed to applicant's San Bruno address by the San Francisco Police Department. The letter warned applicant to cease operating in San Francisco without first obtaining the necessary permits. Applicant's answer is dated September 12, 1974 (Exhibit 27) and is signed by Henke as operations manager. The answer states that applicant has filed with the State Public Utilities Commission and infers that no violations occurred. The officer also testified that a maxi van was observed loading 10 passengers at the Hilton Hotel on October 1, 1974 (Exhibits 28, 29). The driver said he was employed by applicant and was driving a tour arranged by the Seno Travel Service. The officer testified that a limousine registered to applicant was observed at the Saint Francis Hotel in downtown San Francisco on November 6, 1974 (Exhibit 30). The passenger in the vehicle stated the driver was giving her a free ride. It was noted that page 607 of the September 1974 issue of the San Francisco telephone directory includes an advertisement of the AAA-OK Limousine Service which promotes "statewide tours", "sightseeing" and an "airport greeting service." Page 606 lists applicant's address at 1168 Montgomery Avenue, San Bruno (Exhibits 39, 40).

A Commission representative testified that the Robert Thompson (dba Royal Limousine Service) permit (TCP-185) was suspended on November 11, 1973 and revoked on January 3, 1974. He testified that the permit and file are in the name of Robert Thompson and if the Commission received a short letter advising of a change in

insurance coverage, the letter would probably be disregarded. He further testified that a special form must be submitted to transfer or extend coverage. The witness placed Exhibit 43 in evidence which includes a set of copies from the records of Ito Tour Service and Seno Travel Service of San Francisco. The records list tours provided by the AAA-OK Limousine Service from June to November 1974. Most of the trips are from 3 to 9 hours, starting in downtown San Francisco. Several were 12 hours and a few San Francisco-Yosemite Tours are included. Exhibit 44 is a certified copy of a San Francisco Police Report. It reveals that a Maxi-van operated by applicant was observed loading 12 people at the Californian Hotel on January 29, 1975. The driver stated he had no permit to operate in San Francisco.

A staff accountant testified that applicant's Statement of Financial Condition and Income (Exhibit 13) is too brief and indicates financial instability. He testified that some of the assets may actually be owned by individuals rather than applicant (limousines operated by applicant are registered to and owned by others) and there is little cash on hand, and that applicant operated at a loss through May 1974, the period covered in its financial statement.

Counsel for the city of San Francisco represented the San Francisco International Airport. He presented testimony from two witnesses. The operations supervisor at the airport testified he was formerly chief of security and is aware of the problems involved in regulating cab and limousine operators. He testified that Greyhound Lines, Airporter, Yellow Cab Company, and a few others operate under contracts with the airport which authorize them to solicit passengers and to utilize reserved parking areas adjacent to the terminals, for a consideration paid to the airport. He testified that other for-hire passenger carriers are not authorized to stop at the airport unless in transit with a passenger or to pick up a fare by name, who has a prior reservation. The latter

are required to park in distant areas and are not permitted to solicit business. He testified that operators without contracts are cited by airport police if they are soliciting passengers or parked in forbidden areas. He testified that enforcement of airport regulations is difficult when a policeman must decide whether an offense has been committed. Some operators insist they are included under permits held by others and a few show evidence of authority issued by the State of California. Under Section 602.4 of the Penal Code, no one holding a state charter permit can be arrested for soliciting at the San Francisco Airport. An airport police officer testified that he checked the driver of a limousine parked at the airport on November 9, 1974 and was handed an expired driver's license; the man was advised he could not drive the vehicle; and after a telephone call to AAA-OK Limousine Service, the registered owner, a Mr. Henke came out to move the vehicle; the driver admitted he was a regular employee of AAA-OK Limousine Service.

Discussion

Applicant has been operating as a San Francisco taxicab and as a charter-party carrier without authority. The latter operation was in violation of a cease and desist order issued by the Commission. Applicant does not qualify for a charter-party permit.

Findings

1. Applicant was denied a charter-party carrier permit by Decision No. 82542 dated March 12, 1974 in Application No. 54239.
2. Decision No. 82542 also ordered applicant to cease and desist from operating as a charter-party carrier of passengers without first obtaining the necessary authority.
3. Henke, applicant's operations manager, was also denied a charter permit and ordered to cease operating without authority by the same decision (Application No. 54245).
4. Applicant filed again for a charter permit on July 10, 1974.

5. Applicant has operated as a San Francisco taxicab without authority during September, October, and November 1974.

6. On October 1, 1973 applicant listed all of its vehicles under a charter permit held by a Robert Thompson, without notifying the Commission. Thompson's permit was suspended in November 1973 and revoked in January 1974.

7. Applicant has operated as a charter-party carrier of passengers without authority during 1974, as admitted by applicant's witness and indicated in Exhibit 43.

8. Applicant's balance sheet and income statement form an inadequate basis for a finding of financial responsibility.

9. Applicant has failed to show that it possesses satisfactory fitness and financial responsibility to initiate and conduct the proposed transportation services.

10. Applicant should be ordered to cease and desist from operating as a charter-party carrier of passengers unless proper authority is first obtained.

Conclusions

1. The application should be denied.

2. Applicant has operated as a charter-party carrier of passengers without authority in violation of the cease and desist order included in Decision No. 82542.

3. A cease and desist order should be issued.

O R D E R

IT IS ORDERED that:

1. Application No. 55026 is denied.

2. San Mateo County Transportation Company, Inc., a corporation doing business as AAA-OK Limousine Service, shall cease and desist from operating as a charter-party carrier of passengers without first obtaining the necessary authorization to so operate from this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon applicant, upon the officers of applicant corporation, and upon Milton Henke, Sr. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 24th
day of JUNE, 1975.

Vernon L. Sturgeon
President

Leonard Ross
William H. Stinson
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.