

ORIGINAL

Decision No. 85973

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of WALTER HOFFMAN dba)
ACE A-1 LIMOUSINE SERVICE, of)
San Francisco, California, for a)
permit to operate as a charter-)
party carrier of passengers)
(File No. TCP-397).

Application No. 55326
(Filed November 18, 1974;
amended September 3, 1975)

Howard Moore, Jr., Attorney at Law, for
applicant.
James B. Brasil, Deputy City Attorney, for
the City and County of San Francisco,
protestant.
Thomas T. Hamamoto, for the Commission staff.

O P I N I O N

Walter Hoffman, doing business as Ace A-1 Limousine Service, holds Charter-party Carrier of Passenger Permit No. TCP-397, and by this application seeks renewal of his annual permit which was to expire in September 1974. The Commission extended the permit temporarily until this application is resolved.

The application is opposed by the city and county of San Francisco. A public hearing was held on October 17, 1975 before Examiner Fraser, and the matter was submitted on briefs, which have been filed.

The protestant owns and operates the San Francisco International Airport located in San Mateo County. A municipal airport owned and operated by a city in a proprietary capacity can regulate the access and conduct of limousine operators at the airport

regardless of what Commission authority they hold (City of Oakland v Burns (1956) 46 Cal 2d 401; United States v Gray Line Tours of Charleston (4th Circuit 1962) 311 Fed 2d 779).

The protestant has adopted certain rules and regulations, one of which, Rule 1.4.5(c), prohibits limousine companies not under written contract with the Airport Commission from soliciting fares at the airport. Evidence was presented that applicant, as well as others, disregarded that rule. As a consequence, protestant sought injunctive relief, and after a Superior Court hearing pursuant to a Show Cause Order on October 29, 1973 applicant was enjoined from soliciting passengers for-hire within the confines of San Francisco International Airport (Exhibit 5). (City and County of San Francisco v Joseph Burnley, et al., San Mateo County Superior Court No. 178384)

Subsequently, on January 10, 1974 the court determined that applicant had willfully violated the preliminary injunction and found the applicant in contempt (Exhibit 6). Sanctions were ordered. Applicant paid a fine to satisfy the contempt citation, and on June 24, 1975 the San Mateo Superior Court issued judgment in favor of the city and county of San Francisco as plaintiff and against Walter Hoffman and other defendants (Exhibit 7).

Before renewal of a permit to operate as a charter-party carrier of passengers will be issued, an applicant must establish "reasonable fitness and financial responsibility" to conduct the service (Section 5374 of the Public Utilities Code). Protestant contends that applicant operates in violation of the contempt order and airport regulations by actively soliciting passengers at the airport and is not a fit person to receive charter authority.

In the Commission's view, "reasonable fitness" connotes more than mere adequacy or sufficiency in training, competency, or

adaptability to the appropriate technical and vocational aspects of the service to be rendered. It also includes an element of moral trustworthiness, reliance, and dependability. The standards must be based on the interests of the public as distinguished from the interests of the applicant, and the burden rests with the applicant to demonstrate that he is reasonably fit to be entrusted with a renewal of Commission authority.

Applicant did not testify and presented no witnesses. His application was placed in evidence along with several photographs of his limousine and airport limousine parking areas.

Three airport police officers testified for protestant. On March 20, 1975 an officer observed applicant in the American Airlines baggage delivery area. The officer overheard applicant ask a lady if she would like to hire his limousine. Applicant turned away and left when an attempt was made to get his photograph. Another officer was on traffic duty in the lower central terminal on May 16, 1975. A soldier walked up to advise his luggage was locked in the trunk of a limousine. The driver locked it in the trunk after stating he would drive the soldier to the Presidio. The officer walked to the limousine with the soldier. Applicant opened the trunk and returned the baggage after being identified as the driver of the vehicle. The third officer was on duty in the airport garage on January 31, 1975, applicant and a sailor came into the garage and walked by the witness. The latter asked several questions which applicant ignored. The sailor stated that Hoffman had approached him to offer transportation to Travis Air Force Base.

It is evident from the record that applicant has continued soliciting at the San Francisco International Airport in violation of the San Mateo County Superior Court injunction and the regulations of the San Francisco International Airport. Applicant's disregard of

court orders and airport regulations demonstrates a fundamental disregard for the law, not consonant with the degree of "reasonable fitness" requisite under Section 5374.

Findings

1. Applicant holds Charter-party Carrier of Passenger Permit No. TCP-397 extended by Commission resolution pending a decision on this application.

2. The Airport Commission of the city and county of San Francisco has contracted exclusively with another operator to provide adequate limousine service to accommodate passengers arriving on all air carrier flight schedules.

3. Applicant has solicited passengers for hire at the San Francisco International Airport, without the required authority from the Airport Commission.

4. The Superior Court of San Mateo County enjoined further solicitation by applicant (and others). Applicant disregarded the restraining order and continued solicitation, was apprehended, found in contempt, and fined.

5. Applicant has continued to solicit at the airport during the past year.

6. Applicant, by these actions, has not demonstrated that he possesses the requisite "reasonable fitness" under Section 5374.

7. It is not in the public interest to grant the application. The Commission concludes that the application to renew should be denied.

O R D E R

IT IS ORDERED that applicant's renewal request is denied, and the interim authority is terminated.

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

Dated at San Francisco, California, this 22nd day of JUNE, 1976.

*I dissent
R. No*

*I dissent
Robert B. ...*

[Signature]

President
William ...
[Signature]

Commissioners