

Decision 84 11 056 NOV 7 1984**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Michael S. Harris for charter-party) Application 84-08-095
 carrier of passengers permit to) (Filed August 28 1984)
 operate in San Francisco.)

Michael S. Harris, for himself.
Mae E. Russell, for Michael S. Harris,
 applicant.
Paul R. Capelle, Jr., for himself,
 protestant.
George Zaback, Jr., and John B. Hogben,
 for the Commission staff.

O P I N I O N

Michael S. Harris (Harris), an individual doing business as Be My Guest and San Francisco Limousine, 1750 Montgomery Street, San Francisco, has applied for a charter-party carrier of passengers permit (TCP-1514-P).

This application was set for hearing at the request of the Commission's Transportation Division staff (staff) so that it could present evidence as to Harris' fitness. Public hearing was held before Administrative Law Judge (ALJ) Mallory in San Francisco on October 15, 1984 and the matter was submitted.

Evidence was presented by Jill L. Capelle and Paul R. Capelle, Jr., by John B. Hogben, an associate transportation representative on the staff of the Commission, and by Harris.

The Capelles testified that Miss Capelle had an automobile accident on August 14, 1984 in the San Francisco Airport area involving a limousine. The driver of the limousine identified herself as Eve Sanchez (Sanchez), an employee of San Francisco Limousine and Be My Guest. The Capelles inquired of Mr. Menelli, an office employee of San Francisco Limousine and Be My Guest, as to the

names of the companies' insurance agent. Those companies were called and the Capelles were informed that Harris' policy had been cancelled. Upon inquiry to the Commission, Hogben informed them that Harris had no insurance on file.

Following up on the information supplied by the Capelles, Hogben made an investigation of Harris' operations. According to Hogben, Harris had operated without requisite Commission authority for some time. Commission records maintained by the Commission's Transportation Division (Exhibit 2) showed that an insurance policy issued to Harris by Sutter Insurance Company was cancelled on August 29, 1983 and that no new insurance policy was on file; and that renewal applications filed by Harris on June 30, 1982 and March 18, 1983 were not processed, for failure to file evidence of adequate insurance.

Hogben received from the Burlingame Police Department a copy of the report (Exhibit 3) of the accident involving Miss Capelle. Hogben called the limousine driver (Sanchez) and she stated that she was an employee of San Francisco Limousine/Be My Guest and was driving passengers from the Hyatt Hotel in Burlingame to the Fairmont Hotel in San Francisco at the time of the accident.

The police report showed that the limousine bore License No. 1W63883. California Department of Motor Vehicles (DMV) records showed that the vehicle was registered to Playboy Limousine in the Los Angeles area. Further investigation showed that Playboy Limousine's assets were acquired by Carey Limousine (Carey). Carey informed Hogben that the limousine in question and two others had been sold to Harris. Copies of the sales receipts were entered as Exhibit 5. The vehicles' registration had not been changed in DMV records.

In a general investigation of limousine operations during the Democratic Convention in San Francisco in August 1984, Hogben and an associate recognized the license number of one of the vehicles transferred from Carey to Harris. That vehicle also bore a sticker

issued by the Commission showing a license issued to a charter-party permittee (TCP-1514-P) which had expired. TCP-1514-P was the identification issued to Harris.

The information obtained in the course of the staff investigation was turned over to the San Francisco District Attorney's office for possible misdemeanor prosecution.

Harris testified substantially as follows: The signature appearing in the charter-party permit application involved in this proceeding is not his signature, and the application was not filed by him. Harris did not exercise control over the operations of San Francisco Limousine and Be My Guest during the period January 1, 1984 through August 1, 1984. Harris had turned over the operations to a group of investors headed by John J. McIntyre (McIntyre) during that period in exchange for the capital to purchase additional equipment from others, including Carey. During that period Harris engaged in setting up limousine operations during the Los Angeles Olympics for other limousine operators, and exercised no control over the day-to-day operations of San Francisco Limousine and Be My Guest. It was Harris' understanding that McIntyre interests, under a corporate name which Harris could not recall, had applied for and obtained operating authority from the Commission and/or filed evidence of insurance with the Commission.

Harris also claimed that he had filed a separate application in his name in August 1984. That application purportedly listed three limousines acquired from Carey, three limousines acquired from Ishi Limousines, and a 1978 van and a 1980 limousine owned by Harris. We take official notice of the fact that a search of the Commission's files showed no such application had been filed by Harris. Harris also claimed that a further investigation by the staff would disclose that he had continuously in force the minimum public liability and property damage insurance required of holders of charter-party permits.

Based on Harris' testimony, the ALJ stated that he would recommend to the Commission that Application (A.) 84-08-095 be dismissed as the signature verifying the application was not Harris', that any application on file or to be filed by Harris seeking authority to operate as a charter-party carrier of passengers be set for hearing and the record in this proceeding be incorporated into the new application, and the staff continue its investigation to determine whether the facts alleged by Harris are true.

Findings of Fact

1. TCP-1514-P was a permit to operate as a charter-party carrier of passengers issued to Harris doing business as San Francisco Limousine and Be My Guest.
2. TCP-1514-P expired on October 10, 1981 and no new authority has been issued to Harris since that date.
3. Harris conducted operations as a charter-party carrier of passengers under the name of San Francisco Limousine and Be My Guest (TCP-1514-P) at a time when no operating authority was held by those companies or by Harris.
4. Harris has no evidence of requisite public liability and property damage insurance on file with the Commission.
5. The signature verifying A.84-08-095 is not that of Harris.
6. Harris has no current application on file for a permit to operate as a charter-party carrier of passengers.
7. This order should become effective today so that a cease and desist order may be made effective immediately.

Conclusions of Law

1. Harris should be directed to immediately cease and desist from further operations as a charter-party carrier of passengers until he obtains authority for such operations from the Commission.
2. A.84-08-095 should be dismissed, as it was not filed by Harris.

3. Any new application for charter-party operations filed by Harris should be docketed as a formal application and set for hearing to determine Harris' fitness to conduct such operations. The record in this proceeding should be incorporated into any new application.

4. Harris should be placed on notice that violation of a cease and desist order may subject him to penalties provided in the Public Utilities Code.

5. The Commission staff should take appropriate steps to ensure that Harris does not conduct operations until a new permit is issued, and evidence of adequate insurance is filed with the Commission.

O R D E R

IT IS ORDERED that:

1. A.84-08-095 is dismissed.
2. Michael S. Harris (Harris) shall cease and desist from operations as a charter-party carrier of passengers until such time as he receives authority from this Commission to conduct such operations.
3. Harris is placed on notice that violation of Ordering Paragraph 2 of this order shall subject him to penalties provided in the Public Utilities Code.
4. Any new application filed by Harris for authority to operate as a charter-party carrier of passengers shall be docketed as a formal application and shall be set for hearing to determine the applicant's fitness to conduct such operations.
5. In the event a new application is filed, the record in this proceeding shall be incorporated into the record in the new application.

6. The Commission's Transportation Division is directed to take appropriate steps to ensure that Harris does not operate as a charter-party carrier of passengers until Harris obtains the requisite operating authority.

This order is effective today.

Dated NOV 7 1984, at San Francisco, California.

VICTOR CALVO
FRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Josepa E. Bodovick, Executive Director