

Decision 89 04 064 APR 26 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CITY OF LOS ANGELES
DEPARTMENT OF TRANSPORTATION,

Complainant,

vs.

CLAYTON REDFIELD, dba
V.I.P. COURTESY CAR SERVICE

and

GRIGORY KHERES, dba
V.I.P. COURTESY CAR SERVICE,

Defendants.

Mailed

APR 27 1989

Case 88-04-036
(Filed April 13, 1988)

K. D. Walpert, for the Department of Transportation,
City of Los Angeles, complainant.
Steven C. Kirby, Attorney at Law, for SuperShuttle
of Los Angeles, Inc., intervenor.
No appearance for defendants.

O P I N I O N

Complainant City of Los Angeles Department of Transportation (LADOT) asserts that defendant Redfield and defendant Kheres provided taxicab service in the City of Los Angeles under the name VIP Courtesy Car Service without proper authority from the city, in violation of Public Utilities (P.U.) Code Section 5353(g), Condition 9 of Charter Party Permit No. TCP-4409-P, and Los Angeles Municipal Code Section 71.02; and with violating P.U. Code Section 5377 and Condition 6 of Charter Party Permit No. TCP-4409-P; and with failure to comply with General Order No. 98-A Part 13 by not maintaining proper records regarding

(i) the name and address of the person requesting the charter, (ii) the party who paid for the transportation, and (iii) how the charge for the trip was computed. LADOT seeks revocation of TCP-4409-P, a cease and desist order, and a prohibition on defendants' applying for any State authority for a period of at least five years.

Defendant Kheres answered the complaint and denied all allegations. Defendant Redfield was served with the complaint but did not answer. The matter was set for public hearing on January 31, 1989 before Administrative Law Judge (ALJ) Robert Barnett, at which time the defendants failed to appear. Commission records show that defendant Kheres was notified of the hearing date by certified letter addressed to him at the address on his answer, and mailed December 2, 1988. The presiding ALJ received testimony and documentary evidence from LADOT. We take official notice that both defendant Redfield and defendant Kheres operated under TCP-4409-P, and that the permit was suspended on September 19, 1988 for failure to provide liability insurance and expired from passage of time on October 13, 1988.

A witness for LADOT testified that he is an investigative photographer; that on April 25, 1988 he called VIP Courtesy Car Service from a supermarket, requested a taxi, and asked to be driven to a local hospital. VIP sent a car which had a four-digit mileage meter visible on the dashboard. Upon arrival at the hospital, the driver called her dispatcher for a rate based on that mileage driven - which was \$4.30. The vehicle was a Lincoln automobile with markings "VIP Courtesy Car Service" on the side with its TCP number.

On the same date the witness again called VIP and asked for a cab to go to a bank. The car had a mileage meter which the driver used to compute the fare of \$5.30. On a third occasion on April 25, the witness again called VIP and requested a cab. He was picked up by a station wagon with the logo "VIP Courtesy Car" and

the TCP number on it. Again, he paid a fare computed by mileage meter - which was \$4.90. He testified that the driver of the vehicle told him "that to avoid being classified as a cab, they called their vehicles 'courtesy cars.'"

A witness employed by United Independent Taxicab testified that he has had numerous complaints from taxicab drivers that VIP was intercepting their calls. He determined that VIP placed direct line telephones in markets and other places next to the taxicabs' direct line phones. On January 5, 1989, he used one of VIP's direct lines and requested a taxicab. He said that VIP accepts senior citizen subsidized taxi coupons in payment for trips. He believes that VIP is operating a taxi service in the City of Los Angeles.

A public utility inspector for LADOT testified that VIP does not have authority to provide taxicab service in the City of Los Angeles, nor does Redfield or Kheres. He said that on occasion he has arrested VIP drivers for operating a taxicab in the city without a permit. At one arrest, he said that he asked a VIP driver for the fare to go to Universal Studio from a market. The driver quoted \$20. He testified that the driver recorded his fares on a waybill which just showed the pickup location, the destination, the mileages and the fare. The driver also had taxicab coupons issued by LADOT. The vehicle had the logo "VIP Courtesy Car Service" with the TCP number. He testified he made three recent arrests of VIP drivers under circumstances similar to those of the first arrest. Finally, he said that VIP is listed in the Pacific Bell Yellow Pages under the heading "Taxicabs".

Discussion

On numerous occasions, we have been called upon to distinguish taxicab operations from authorized charter-party service. (See Los Angeles v. Cosmo Sales (1981) D-93406 in C.10910; Transportation Investments v. Hackett (1983) D.83-09-048 in C.82-03-12; and most recently Coast Yellow Cab Cooperative v. Perzo

(1988) D.88-03-084 and D.87-10-086 in C.86-09-052.) Where the facts were clear we had no difficulty finding that a taxicab operation was being conducted under the guise of a charter-party carrier (e.g., Perzo, supra). In our opinion, the facts presented by the City, as found below, show that defendants Redfield and Kheres were operating a taxicab service under the guise of a charter-party carrier.

A cease and desist order is not needed. A five-year prohibition on operations is excessive. A six-month prohibition, with the requirement of a finding of fitness, after a public hearing, is adequate.

Findings of Fact

1. Clayton Redfield and Grigory Kheres, dba VIP Courtesy Car Service operated under TCP-4409-P as a charter-party carrier of passengers. They do not have taxicab authority in the City of Los Angeles.

2. Permit TCP-4409-P was suspended on September 19, 1988 for failure to provide liability insurance and expired from passage of time on October 13, 1988.

3. On three occasions in April 1988, VIP immediately responded to requests for taxicab service in the City of Los Angeles and did not record the information required of a charter-party carrier, i.e., the name and address of the person requesting the charter; the name of the person who paid for the transportation; details of the points of origin and destination; indication of the total hours the driver was on duty and total driving time; indication of all stops with departure and arrival times; and recording the driver's remarks concerning the conduct of the charter and the performance of the vehicle.

4. On at least one occasion in 1989, VIP operated after its permit had expired.

5. VIP accepted City of Los Angeles taxicab coupons in payment for services.

6. VIP is listed in the Pacific Bell Yellow Pages under the heading "Taxicabs".

Conclusions of Law

1. Defendants Clayton Redfield and Grigory Kheres violated P.U. Code § 5353(g); Conditions 6 and 9 of Charter-Party Permit No. TCP-4409-P; and failed to comply with General Order 98-A.

2. Neither Clayton Redfield or Grigory Kheres, individually or as principals in a partnership or corporation, shall receive any Commission authorized transportation authority for a period of not less than six months from the effective date of this order, and then only after a public hearing to determine fitness to operate.

ORDER

IT IS ORDERED that:

1. Clayton Redfield and Grigory Kheres, individually or as principals in a partnership or corporation, shall not receive any Commission authorized transportation authority for a period of not less than six months from the effective date of this order, and then only after a public hearing to determine fitness to operate.

2. To the extent not granted above, the complaint is denied.

This order is effective today.

Dated APR 26 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

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

Victor Weiss
Victor Weiss, Executive Director