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Decision 92-11-042 November 23, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations and practices of Alexander Kamenetsky, doing business as Deja Vue Livery Service, and Leonard Kamenetsky, also known as Leonard Gershcovich,

Respondents.

Application of Leonard Kamenetsky, dba Deja Vue Livery, Inc., for Charter Party Authority to Provide Limousine Service.

ORIGINAL

I. 92-09-017

(Filed September 16, 1992)

Application 92-10-031
(Filed October 27, 1992)

INTERIM OPINION

Public Utilities (PU) Code § 5379.5 provides that the Commission, on complaint or on its own motion, with or without hearing, may order a corporation or person operating as a charter-party carrier of passengers without a valid permit in violation of the Passenger Charter-Party Carriers' Act (PU Code §§ 5351 et seq.) to cease and desist from that operation until the Commission makes and files its decision in the matter, or until further order of the Commission.

Leonard Kamenetsky, also known as Leonard Gershcovich, is believed to be operating one or more limousine companies known as Deja Vue Livery Service or Deja Vue Livery, Inc. (herein referred to as Deja Vue). Moreover, Transportation Division (TD) alleges Leonard Kamenetsky has engaged in numerous improper business practices, such as charging higher than quoted rates ("bait and switch"), making unauthorized credit card charges or double-billing charges, providing vehicles in poor condition or without promised amenities, employing rude or incompetent drivers, failing to

respond to complaints, and secretly tape recording the conversations of a group of passengers. These charges are supported by written statements from 16 customers of Leonard Kamenetsky and Deja Vue, including seven written declarations made under penalty of perjury.

TD's investigator declares under penalty of perjury that Leonard Kamenetsky's driver's license was suspended and subsequently revoked. TD indicates that there are numerous vehicle code violations and two vehicle accidents cited in the Department of Motor Vehicles (DMV) records of Leonard Kamenetsky and Leonard Gershovich.

Further, TD declares that the Commission issued a permit to operate as a charter-party carrier on October 3, 1990 to Alexander Kamenetsky (Leonard's father), doing business as Deja Vue Livery Service (aka Deja Vue Limousine), TCP 6806. The investigator determined that, although Alexander is the permit holder, Leonard is actually the owner and operator.

TD reports that Deja Vue filed a declaration with the Commission that it has no employees subject to the workers' compensation laws of the State of California, but that Deja Vue had, or has, several employees subject to the workers' compensation laws. Leonard Kamenetsky obtained workers' compensation insurance, according to TD, but it would have been rejected by the Commission had it been filed because it was in Leonard's name, not the name of the permit holder (Alexander Kamenetsky).

Deja Vue used the services of unpermitted subcarriers in violation of General Order (GO) 157-A, Part 3.04, according to TD. Deja Vue's equipment list (required by GO 157-A, Part 4.01) does not list all Deja Vue's equipment, TD asserts. Moreover, TD observed two different Deja Vue vehicles at the same time having license plates with the same number on the rear bumpers (one with a DMV license sticker tag and one without), and no license plate attached to either of the front bumpers. TD reports that of

169 invoices reviewed, Deja Vue failed to properly complete some important portion of all 169 invoices, and that its records fail to include required information in violation of Commission GO 157-A Parts, 3.01 and 6.01. Finally, TD asserts that Deja Vue's representation of itself as a corporation misleads the public.

A telephone conference call between respondents, applicants, TD, and the administrative law judge (ALJ) was held November 2, 1992, during which TD moved for an immediate cease and desist order from the Commission. By written ALJ's ruling, respondents and applicant were given until November 13, 1992 to reply. No reply was received. In a subsequent telephone conference call, respondents and applicant requested a delay in issuing the cease and desist order pending completion of a pending settlement. We decline to delay. We see no reason that a delay will assist the settlement process while a delay would seemingly sanction unauthorized operation.

Whether these charges are ultimately found to be true or false will be determined after hearing in these two proceedings, set to begin at 10:00 a.m. on December 14, 1992. Nevertheless, from the TD investigator's declaration, plus the statements, and declarations of 16 customers, there is sufficient reason to believe that Leonard Kamenetsky is operating a charter-party passenger carrier operation without a permit to order Leonard Kamenetsky to cease and desist any and all charter-party passenger carrier operations under any names, including but not limited to Deja Vue Livery Service, Deja Vue Livery, Inc., and Deja Vue Limousine, until further order of the Commission. Moreover, given the number of charges and the severity, along with the situation of Alexander Kamenetsky having a permit but Leonard Kamenetsky apparently operating the business, we direct that Leonard Kamenetsky immediately cease and desist from these operations, and do so whether as owner or employee. We base the following findings of

fact on the TD investigator's declaration, plus the statements and declarations of 16 customers.

Findings of Fact

1. Leonard Kamenetsky, also known as Leonard Gershovich, is operating one or more charter-party passenger carrier companies without actually holding a permit to do so.

2. Sixteen customers, including seven customers making declarations under penalty of perjury, assert that Leonard Kamenetsky and Deja Vue have engaged in charter-party passenger carrier operations, and that those operations include improper billing of charges ("bait and switch," charging higher than quoted rates, double-billing), providing vehicles in poor condition or without promised amenities, employing rude or incompetent drivers, failing to respond to complaints, and secretly tape recording the conversations of a group of passengers.

3. Leonard Kamenetsky's driver's license has been suspended and subsequently revoked.

4. There are numerous vehicle code violations and two vehicle accidents cited in the DMV records of Leonard Kamenetsky and Leonard Gershovich.

5. Leonard Kamenetsky owns and operates Deja Vue Livery Service (aka Deja Vue Livery, Inc. and Deja Vue Limousine), even though permit TCP 6806 is issued to Alexander Kamenetsky, doing business as Deja Vue Livery Service.

6. Deja Vue filed a declaration with the Commission that Deja Vue has no employees subject to the workers' compensation laws of the State of California, but Deja Vue had, or has, several such employees.

7. Deja Vue used the services of unpermitted subcarriers in violation of GO 157-A, Part 3.04.

8. Deja Vue's equipment list does not list all Deja Vue's equipment, in violation of GO 157-A, Part 4.01.

9. Deja Vue used the license plate from one vehicle on another vehicle.

10. Deja Vue fails to complete its invoices and keep records as required by GO 157-A, Parts 3.01 and 6.01.

11. Deja Vue represents itself as a corporation, misleading the public.

Conclusions of Law

1. PU Code § 5379.5 provides that the Commission, on complaint or on its own motion, with or without hearing, may order a corporation or person operating as a charter-party carrier of passengers without a valid permit in violation of the Passenger Charter-Party Carriers' Act (PU Code §§ 5351 et seq.) to cease and desist from that operation until the Commission makes and files its decision in the matter or until further order of the Commission.

2. There is sufficient reason to believe that Leonard Kamenetsky is operating a charter-party passenger carrier operation without a permit to order under PU Code § 5379.5 that Leonard Kamenetsky cease and desist any and all charter-party passenger carrier operations under any names, including but not limited to Deja Vue Livery Service, Deja Vue Livery, Inc., and Deja Vue Limousine until further order of the Commission, and, given the situation of the permit holder being Alexander Kamenetsky while Leonard Kamenetsky appears to be the operator, to order Leonard Kamenetsky to cease and desist whether as an owner or employee, until further order of the Commission.

3. This order should be effective today given that Leonard Kamenetsky does not have a permit to conduct charter-party carrier operations, given the cumulative number and severity of the allegations of improper business practices against Leonard Kamenetsky, and therefore given the need to ensure that Leonard Kamenetsky ceases operations immediately.

INTERIM ORDER

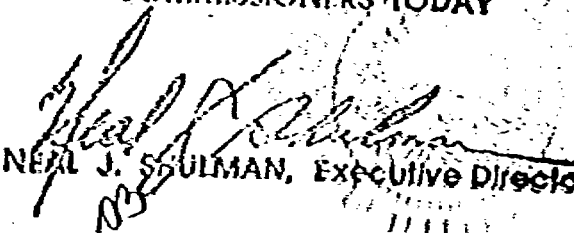
IT IS ORDERED that Leonard Kamenetsky, also known as Leonard Gershcovich, immediately cease and desist any and all charter-party passenger carrier operations under any names, including but not limited to Deja Vue Livery Service, Deja Vue Livery, Inc., and Deja Vue Limousine, whether as an owner or employee, until further order of the Commission.

This order is effective today.

Dated November 23, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEIL J. SULMAN, Executive Director