

Decision 82 01 102 JAN 19 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Ron Ratti, dba Airport Transfer,)
for permanent authority to operate)
as a passenger stage corporation)
between the financial district of)
San Francisco and San Francisco)
International Airport.)

Application 60388
(Filed March 24, 1981)

Richards & Weber, by Howard R. Weber, Attorney
at Law, for Ronald Ratti, dba Airport Transfer,
applicant.

Handler, Baker, Greene & Taylor, by Raymond A.
Greene, Jr., Attorney at Law, for SFO Airporter, Inc.;
Clapp & Custer, by James S. Clapp and Daniel J.
Custer, Attorneys at Law, for Lorrie's Travel &
Tours, Inc.; William Lazar, for Luxor Cabs; and
James E. Steele, for Yellow Cab Coop Inc.;
protestants.

William C. Taylor, Deputy City Attorney, for San
Francisco International Airport, City and
County of San Francisco, interested party.

O P I N I O N

Ron Ratti (Ratti), dba Airport Transfer, seeks authority to operate a passenger stage between the financial district of San Francisco and the San Francisco International Airport (SFO). Lorrie's Travel & Tours, Inc. (Lorrie's) filed a timely protest and SFO Airporter, Inc. (Airporter) filed a motion to file a late-filed protest, which was granted. Luxor Cabs and Yellow Cab Coop Inc. appeared as protestants at the hearing but did not actively participate. Hearings were held June 8, July 16 and 17, and August 13, 1981, before Administrative Law Judge Robert T. Baer and the matter was submitted subject to the filing of transcripts, concurrent briefs, and late-filed exhibits, which have been received.

Procedural History

Since the primary issue in this proceeding is Ratti's fitness, it may be well to briefly review his history before the Commission as it relates to the issue of his fitness. Ratti has filed three applications seeking passenger stage authority. The first was Application (A.) 55877, filed August 20, 1975. It was heard on a consolidated record with Case (C.) 9993 and C.10091, complaints filed against Ratti by The Gray Line, Inc. In A.55877 Ratti sought sightseeing authority for tours in and around San Francisco. After protracted hearings involving numerous parties, we found, among other things, that:

"...Ratti [has] failed to demonstrate that degree of fitness, responsibility, good faith, and willingness to abide by the law and Commission rules requisite for an applicant to merit certification to serve the general public."
(Finding of Fact 12, Decision (D.) 89729, dated December 12, 1978.)

Accordingly, we denied the application.

Next, Ratti filed A.57047 on February 2, 1977, seeking authority to provide passenger stage service between the financial district of San Francisco and SFO. By D.90797 dated September 12, 1979, the Commission granted Ratti authority to provide the proposed service, but, because of reservations about his fitness, limited the authority to 18 months and otherwise conditioned it. The parts of D.90797 relevant to Ratti's fitness are as follows:

"Although we grant the staff's motion to incorporate the record in Application No. 55877, its probative value is limited by its age. The hearings in that proceeding were held over two years ago, and there is nothing on this record to indicate that currently applicant lacks the requisite fitness. Because we still have reservations

regarding applicant's fitness and willingness to operate in compliance with applicable laws, rules and regulations, we will grant the certificate requested for a limited period of eighteen months and with certain conditions."

* * *

"Findings of Fact"

* * *

"5. The evidence establishes some doubts as to the applicant's fitness for permanent authority."

* * *

"Conclusions of Law"

* * *

"2. Applicant's fitness and willingness to abide by applicable laws, rules and regulations governing the provision of passenger stage service must be demonstrated further to warrant the issuance of a permanent certificate.

"3. Applicant shall be granted a temporary certificate, which shall expire within 18 months of the date of issuance. Applicant may reapply to the Commission at that time for a permanent certificate.

"4. If applicant has complied with all applicable statutes, rules and regulations of the Commission during this period, the Commission may issue applicant permanent authority.

"5. Applicant's temporary certificate shall be subject to certain conditions.

"O R D E R"

"IT IS ORDERED that:

"1. A certificate of Public Convenience and Necessity is granted to Ronald Ratti, dba Bankers Limousine Service, authorizing him

to operate as a passenger stage corporation as defined in Section 226 of the Public Utilities Code, between points in San Francisco and the San Francisco International Airport subject to the conditions in Ordering paragraph two below and also subject to the conditions set forth in Appendix A of this decision.

- "2. Application No. 57047 is granted a temporary certificate which shall expire on March 12, 1981, unless extended by further order of the Commission, and subject to the following conditions:
- "a) Applicant shall abide by all the laws, rules, and regulations of this Commission applicable to passenger stage utilities;
 - "b) Applicant shall withhold taxes from employee wages pursuant to State and Federal law;
 - "c) Applicant shall pay his employees properly and regularly;
 - "d) Applicant shall keep this utility's operations and accounting separate from any other business;
 - "e) Applicant shall further abide with all the laws, ordinances, rules and regulations of the City and County of San Francisco, San Francisco Airport Commission, State of California and the Federal government.
- "3. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so may result in a cancellation of this authority:
- "a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if he accepts the certificate he will be required, among other things, to comply with the safety rules administered

by the California Highway Patrol, the rules and other regulations of the Commission's General Order 98-Series and the insurance requirements of the Commission's General Order 101-Series.

- "b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs and timetables, in triplicate, in the Commission's office.
- "c) The tariff and timetable filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the authorized service.
- "d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders 79-Series and 98-Series.
- "e) Applicant shall maintain his accounting records on a calendar-year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe."
(D.90797, pp. 5-8.)

After D.90797 was issued, Ratti accepted the temporary certificate and operated under it until it expired - by the terms of D.90797 - on March 12, 1981. Although lacking authority, Ratti has since that time continued to operate his airport service.

On March 24, 1981, after his temporary authority had expired, Ratti filed this application for permanent authority to operate the same passenger stage service that D.90797 authorized.

By this application Ratti seeks a certificate of public convenience and necessity to operate as a passenger stage corporation and to continue the same airport service that he began under D.90797 and that he continues to provide without authority.

Proposed Service

Ratti proposes to provide, and now provides, a scheduled service by two 12-passenger Dodge vans between points in the financial district of San Francisco and SFO. The points served in the financial district are 555 California Street, Sansome and Clay Streets, California and Davis Streets, and 50 Beale Street. The points served at SFO are the South, Central, and North Terminals. Ratti's van departs from the financial district every half hour between 8:00 a.m. and 5:10 p.m. and from SFO every half hour between 8:33 a.m. and 5:35 p.m. Monday through Friday except holidays. The fare is \$6 one way.

Discussion

Since Ratti's fitness to receive a passenger stage certificate is the primary issue in this proceeding, we will first consider the evidence related to that issue. In discussing that evidence we will use the conditions imposed in D.90797, supra, as a starting point.

Adherence to Laws, Rules,
And Regulations

In D.90797 the Commission ordered as a condition of its grant of temporary authority that "Applicant shall abide by all the laws, rules, and regulations of this Commission applicable to passenger stage utilities." One of the most fundamental of those laws is that a person may not operate without authority. (Public

Utilities (PU) Code § 1031.) Despite this mandatory provision of law, Ratti allowed his temporary operating authority to expire before filing his application for permanent authority and has continued to operate without authority since March 12, 1981. In doing so Ratti completely ignored the Commission's statement that:

"Applicant should file any application for permanent operating authority within one year after the effective date of the following order to enable processing of the application prior to the expiration of the temporary operating authority." (D.90797, p. 5.)

In addition, Ratti violated Rule 21(f) of the Rules of Practice and Procedure by failing to serve copies of his application upon all common carriers with which the proposed service is likely to compete. He also violated Rule 21(g) which requires service upon any state or local authorities in the area to be served, which, in this case, is the City and County of San Francisco. Ratti served no person or entity with a copy of the application or any other notice.

Withholding Taxes

In D.90797 the Commission ordered Ratti to "withhold taxes from employee wages pursuant to State and Federal law." Although Ratti's son works in the business as a driver, taxes were not withheld for his benefit. Ratti's excuse for this failure is that his son is not an employee but a partner and that they draw equally on the partnership's revenues. Ratti testified to the existence of a written partnership agreement, but could not produce it. He further testified that he gave \$10,000 in cash to his son as the son's 50% share of a partnership distribution of profits, but that distribution is not reflected in the books of the partnership. He stated that his son did not file an income tax return as to the \$10,000 draw, explaining that the partnership itself is responsible for the taxes. He added

that he has made the total investment in the business and his son has invested nothing.

Ratti's annual report for 1980 stands in partial contrast to the above testimony regarding the existence of a partnership. In that report, signed March 30, 1981, Ratti names himself as the owner and describes the form of ownership as "individual". No partners are listed. On the signature page he again gives himself the title of owner rather than partner. On the comparative balance sheet, however, Ratti places noncorporate capital on Line 281, partnership capital, rather than on Line 280, sole proprietorship capital. And on Schedule C-2 (compensation of owner or partners included in operating expenses) he describes a \$20,000 charge to Account 461.1 as "Partner's Draw", using the equivocal singular possessive case.

Several other factors bear on the question of form of ownership of Airport Transfer. First, Ratti's temporary certificate was issued to him as an individual and the Original Title Page states that: "All changes and amendments as authorized by the...Commission ...will be made as revised pages or added original pages." No changed or added pages have been filed. Second, Ratti has never notified the Commission, either formally or informally, of any change in form of ownership. Third, Ratti did not call his son to testify concerning their business arrangements. Fourth, this application for permanent authority is made in his own name and not in the names of himself and his son as partners. Fifth, Ratti has filed no application under PU Code § 851 to sell, lease, assign, or dispose of a part of his utility property or certificate to his son. Sixth, the son is not responsible for the payment of any expenses of the company. Seventh, Ratti testified that the checks issued on his business account, which he classifies as payments of his personal

expenses, total approximately \$20,000 and that none of the checks issued in 1980 involve payments to or for the benefit of his son. Rather, Ratti stated that he gave \$10,000 in cash to his son as compensation for his work in the business.

The preponderance of the evidence favors the conclusion that Ratti's operation is a sole proprietorship. He may think of it as a partnership, but it has none of the indicia of a partnership. Accordingly, Ratti's son is his employee and Ratti should have withheld state and federal taxes from his wages. He did not do so, and therefore violated Ordering Paragraph 2(b) of D.90797, which requires such withholding.

Payment of Employees

D.90797 requires Ratti to "pay his employees properly and regularly." There is no documentary evidence, either in Ratti's ledgers, check stubs, or annual report of any payment, regular, proper, or otherwise, to his son or to a substitute driver he employs from time to time.

Separation of Business Operations

D.90797 requires Ratti to "keep this utility's operations and accounting separate from any other business." Aside from commingling his personal and business expenses by paying both out of the same checking account, Ratti has also commingled the affairs of Boranda, Inc., a corporation of which he is the sole shareholder, and his passenger stage operations. According to the testimony, Boranda, Inc. owns the two vans that Ratti uses in his passenger business. Even though the vans are owned by Boranda, Inc., Ratti shows them as assets of his Airport Transfer operation, a sole proprietorship, on his 1980 annual report to the Commission. (See Exh. 12, comparative balance sheet and Schedule A-5.) Moreover,

his annual report also shows charges to depreciation expense of \$5,000 attributable to the vans (see Exh. 12, comparative balance sheet and Schedule A-15). Finally, the commercial checking account through which Ratti deposits the revenues and pays the expenses of his Airport Transfer operation is the account of Boranda, Inc.

In failing to separate his utility operations and accounting from the operations and accounting of Boranda, Inc., Ratti has violated Ordering Paragraph 2(d) of D.90797.

Tariffs and Timetables

Ordering Paragraph 3(b) requires Ratti to file tariffs and timetables within 120 days of the effective date of D.90797. Ratti submitted for filing the tariff and timetable required by D.90797. (Exh. 6 & 7.) However, they were rejected by the staff on January 17, 1980, because he did not specify the charges for excess baggage. Ratti testified that he refiled the tariff and timetable corrected as required by the staff. A staff witness recalled seeing the corrected documents when Ratti presented them. The staff witness stated that he transferred them to another staff person, who has since left the Commission. There are no tariffs or timetables now on file with the Commission for Ratti's Airport Transfer operation, apparently due to an oversight by the staff. Ratti could not produce a copy of the corrected tariff and timetable, nor of the request for route and name changes he allegedly submitted at the same time.

Accounting Records

Ordering Paragraph 3(e) of D.90797 required Ratti to "maintain his accounting records...in conformance with the applicable ...Chart of Accounts as prescribed or adopted by this Commission." By D.76185 dated September 9, 1969, in C.4713, the Commission adopted

a Chart of Accounts for Certificated Class II and Class III^{1/} Motor Carriers of Passengers. It was effective January 1, 1970, and copies may be obtained from the Commission's Documents Office. Comparison of that chart of accounts with Exhibits 5 and 13, Ratti's records of income and expense for 1980, shows no relationship whatever. Expenses are not classified in accordance with the chart of accounts, nor are any accounts numbered as the chart requires. Many of the entries in Exhibit 13, the classification side of Ratti's expense ledger, are personal expenses of Ratti but are accounted for as expenses of the business.

Basically, Ratti's records consist of a check register on one page and a facing page where the checks are classified. This ledger is prepared by Ratti's bookkeeper from daily revenue records - which he throws away after recording - and from Ratti's check stubs. The bookkeeper does not use either the canceled checks or the bank statements.

Annual Report

While Ratti has technically complied with the Commission's requirement to file an annual report, he has not supplied a report that gives an accurate picture of his operations. One of the reasons for this situation is that the annual report cannot be reconciled with Ratti's accounting records. In fact the data in the annual report are not based upon Ratti's accounts, as his bookkeeper testified:

"Q . . . It appears to me, Mr. Koury, that the annual report was prepared from a source other than the ledger that we have been using today. Is that true or false?

^{1/} Class II carriers are those with average annual operating revenues of \$200,000 and over but less than \$1,000,000; Class III carriers are those with average annual operating revenues of less than \$200,000.

"A I really don't know how to answer that, except I will say -- and without the advice of counsel I am not too sure I should.

"Q . . . Could you tell me the process by which the report was prepared? For instance, did Mr. Ratti dictate figures to you which you recorded on the annual report?

"A Primarily that is a correct statement." (Tr. 183.)

For instance, Ratti's expense ledger for 1980 shows approximately \$5,500 for advertising and promotion. However, Line 440 of the annual report shows zero expenditures for traffic solicitation and advertising expense. Again, the annual report shows fuel expense of \$11,327.89, while the ledger total is \$16,267.56. Asked whether he could account for the difference, the bookkeeper replied: "I certainly can... I had to prepare this report based on information which was not complete, and that is all I am going to say..."

(Tr. 179.) Ratti has items in his ledger for repairs and for supplies which cannot be traced to the annual report. Finally, the column in his expense ledger for personal expenses totaled \$11,348.39, but Ratti claimed a personal draw of \$20,000 for the year 1980 in his annual report. Ratti later explained that the total amount of his personal expenses represented by checks issued on his business account exceeded \$20,000, but that the bookkeeper had mistakenly placed some of them in other columns of the ledger designed for business expenses. He shows these expenses on Exhibit 13.

At the end of the annual report for 1980 (Exh. 12) Ratti declares under penalty of perjury that the report was prepared from his "books, papers, and records" and that it is a "complete and correct statement" of his "business and affairs". These declarations are substantially untrue.

Not only has Ratti failed to maintain books and records and to file an accurate annual report as required by the Commission, but his business practices vary so significantly from what is customary as to throw additional doubt upon his fitness. During the hearings Ratti produced his bank statements for his business account. The bank statements show a balance in the account of \$695.85 as of January 1, 1980, while the annual report shows \$5,000 for the same date. Again, the bank statements show an account balance of \$92.32 for December 31, 1980, while the annual report shows cash on hand at the same date of \$3,586.82. Also, Ratti's ledger for 1980 shows total revenues for January and February of \$2,316, yet his bank statements show \$10,800 in deposits for those two months.

Ratti explains the beginning of the year discrepancy as follows:

"Can you explain the difference?

"A Yes. The difference was in cash.

"Q Where was the cash located?

"A In my private safe.

"Q In your private safe?

"A That is correct.

"Q At home or what?

"A That's correct, at home.

"Q So you had the exact difference --

"A That is correct.

"Q -- between the bank balance and the \$5,000 in cash in your safe at home?

"A That is correct.

"Q Let me ask you this, the obvious, why did you keep it in a safe at home?

"A There is no particular reason. I just preferred to do business that way.

"Q Keeping cash at home --

"A That's correct.

"Q -- that could otherwise earn interest?

"A That is correct.

"Q And simply a personal preference?

"A That is correct." (Tr. 374-375.)

Ratti explains the end-of-year discrepancy as follows:

"Now, here again can you explain the discrepancy?

"A The difference is in cash.

"Q Between what the bank statement and what the annual report shows?

"A The difference is cash that I had held on hand.

"Q That is in the safe too?

"A That is correct." (Tr. 376.)

Ratti explains the difference between January and February 1980 revenues and deposits as follows:

"A The difference in the monies was not revenue. It was money that I put into the company to keep it afloat."

* * *

"Q So the difference then is in monies that you deposited on your own, other than revenues owned from the company's operations.

"Is that your answer?

"A That's correct.

"Q And where is that deposit or contribution reflected on the annual report as a contribution to the partnership?

"A It is not.

"Q It is not?

"A It is not reflected on the annual report.

"Q Why?

"A It was an emergency cash loan that I made to myself or to the business.

"I didn't reveal it as a note or a loan.

"Q For what reason?

"A For what reason did I loan myself the money?

"Q What was the emergency?

"A The expenses were more than the revenue.

"Q Where did it come from?

"A The difference in the money?

"Q Yes.

"A It came from me personally.

"Q You personally?

"A That is correct.

"Q Another bank account or something?

"A No, cash.

"Q Cash again from the safe?

"A That is correct.

"Q How much cash do you have in that safe?

"A It varies.

"Q Are these dollar bills, \$10 bills?

"A Different denominations.

"Q At any one time, what would be the largest amount that you had in that safe in cash?

"A I don't really know.

"Q Any idea? You don't know how much money you have in the safe?

"A No." (Tr. 377-378.)

The testimony concerning the money in the safe was concluded by this dialogue:

"Q Getting back to the safe just for a minute, what is the source of the money that is in the safe?

"A I don't think that is relevant to these hearings.

"Q Do you know what the source is?

"A I would have to go and check my records to find out the source.

"It has nothing to do with this business, other than the kind of monies that I am holding for it.

"Q Nothing to do with the business at all?"

* * *

"A Other than the monies that I am holding for this business.

"Q Are you engaged in any other business?

"A No, I am not.

"Q That money found its way into the safe somehow?

"A No. I put it there.

"Q Where did it come from?"

* * *

"A The monies in the safe came from this business.

"Q The monies in the safe came from the business. Okay. Let's take that assumption.

"Again going back to January and February of 1980, your revenues were \$2316.

"Your deposits totalled \$10,800.

"A Uh-huh.

"Q You have testified earlier that you first started business in January of 1980.

"A Uh-huh.

"Q You have no income. You ran some free trips in December '79 and November or whatever.

"A Uh-huh.

"Q Now, the \$10,800 is roughly eight or nine thousand dollars more than the revenues you enjoy for January.

"Where did it come from? It couldn't come from the business.

"A That is money I had accumulated over a period of years.

"Q So all the money in the safe doesn't come from the business?

"A No. I have a portion of the monies in the safe that belongs in the business.

"Q Pardon me?

"A I have a portion of the money in the safe that belongs to the business.

"Q And a portion of which doesn't come from the business?

"A That's true.

"Q It must come from somewhere.

"A Monies I have accumulated over a period of years.

"Q Mr. Ratti, I am not trying to be smart. I am really not. I am trying to be as fair as I can about this.

"But you're not a dumb person, and people just don't keep \$8000 in a safe.

"A I am sorry. I do." (Tr. 379-382.)

We will not speculate on Ratti's reasons for keeping large sums of cash in his safe, rather than in interest-bearing accounts or securities. However, it is fair to state that no reasonable and prudent businessman, operating only a business such as Ratti's, would neglect the earning potential of such sums for any legitimate business purpose that occurs to us. Beyond that point, the foregoing dialogue demonstrates that Ratti is not a credible witness. When asked about the source of the cash in his safe, Ratti replied variously:

1. "I would have to go and check my records to find out the source." (Tr. 379.)
2. "The monies in the safe came from this business." (Tr. 380.)
3. "That is money I had accumulated over a period of years." (Tr. 381.)

In summary, Ratti was given a temporary certificate to allow him time to demonstrate his fitness for permanent authority. In effect he was placed on probation to allow him time to prove himself. He has failed to comply with many of the Commission's orders and rules and has, thereby, clearly demonstrated his unfitness for permanent authority.

Because we have concluded that Ratti is unfit to receive a permanent certificate, it will not be necessary to discuss at length the question of public need for the service. Suffice to say that travelers between San Francisco and SFO are amply served by a variety of public carriers, including:

1. Airporter, which operates from its downtown airline terminal at Taylor and Ellis Streets, 365 days per year, 24 hours per day. Its buses depart the terminal every 10 minutes between 6 a.m. and 10 p.m., every half hour between 10 p.m. and midnight, and every hour between midnight and 6 a.m. The fare is \$4 per person.
2. Lorrie's, which operates 20-passenger vans and provides door-to-door, on-call service between downtown San Francisco and SFO. The fare is \$6.50 per person.
3. SamTrans, which operates buses from First and Mission Streets every 15 minutes. The fare is \$.80 per person.
4. Associated Limousine, which operates luxury-type limousines.
5. National Executive Service.
6. Taxicabs.

Also competing for the same traffic are certain unauthorized carriers, namely, Pat's Limousine and Eugene Yen.

All of these transportation agencies are competing to carry a declining volume of enplaning and deplaning passengers at SFO. Airporter has lost money each year since 1976, despite frequent rate increases. Lorrie's has never made a profit. Given the number of carriers serving this market and the current economic climate, the loss of Ratti's service will not significantly affect the traveling public.

Findings of Fact

1. On September 12, 1979, Ratti, dba Bankers Limousine Service, was granted a temporary certificate to operate as a passenger stage corporation serving between downtown San Francisco and SFO.
2. On September 25, 1979, Ratti filed a written acceptance of the certificate stating: "I accept the temporary certificate subject to all of the terms and conditions contained therein. [¶] It is my intention to comply fully with all such terms and conditions contained throughout the decision and temporary certificate..."
3. Ratti commenced operating his scheduled airport service within 120 days after the effective date of D.90797, as required by Ordering Paragraph 3(b).
4. Ratti's insurance coverage is evidenced by the appropriate certificate on file with the Commission.
5. Ratti allowed his temporary operating authority to expire before applying for permanent authority.
6. Ratti has operated without authority since March 12, 1981.
7. Ratti did not serve copies of his application upon competing common carriers or upon local authorities.

8. Ratti does not withhold taxes from employee wages as required by state and federal law.

9. Ratti's son is an employee, rather than a partner.

10. Ratti has not paid his son properly or regularly.

11. Ratti has not kept his utility operations and accounting separate from the business of Boranda, Inc. or from his own personal business.

12. There is no tariff or timetable on file for Ratti's passenger stage service.

13. Ratti has changed his business name from Bankers' Limousine Service to Airport Transfer without the authority of the Commission. ✓

14. Ratti has changed his route without authority of the Commission.

15. Ratti has not maintained his accounting records in accordance with the Chart of Accounts for Certificated Motor Carriers of Passengers.

16. Although Ratti filed an annual report for 1980, it was not prepared from his books, papers, and records, and is not a complete and correct statement of his business affairs.

17. Ratti's practice of keeping large sums of cash in a safe in his home and of using these cash reserves to pay business expenses and to fund his passenger stage operation casts doubt upon his fitness to receive permanent operating authority.

18. Public convenience and necessity do not require Ratti's service irrespective of his fitness.

Conclusions of Law

1. Ratti has violated PU Code § 1031 by operating without authority.

2. Ratti has violated Rules 21(f) and 21(g) of the Rules of Practice and Procedure by failing to serve copies of his application upon competing common carriers and the City and County of San Francisco.

3. Ratti has violated Ordering Paragraph 2(a) of D.90797 by failing to abide by all laws, rules, and regulations of this Commission.

4. Ratti has violated Ordering Paragraph 2(b) of D.90797 by failing to withhold taxes from his employee's wages.

5. Ratti has violated Ordering Paragraph 2(c) of D.90797 by failing to pay his employee properly and regularly.

6. Ratti has violated Ordering Paragraph 2(d) of D.90797 by failing to keep his utility operations and accounting separate from his other business.

7. Ratti changed his business name and route without authority from the Commission.

8. Ratti has violated Ordering Paragraph 3(e) of D.90797 by failing to maintain his accounting records in conformity with the prescribed chart of accounts and by failing to file an annual report containing the information prescribed by the Commission.

9. Ratti has failed to show that he is willing to abide by the laws, rules, and regulations governing the provision of passenger stage service and is, accordingly, not a fit person to receive permanent operating authority.

10. The application should be denied.

11. Because Ratti is now operating without authority, this order should be effective today.

O R D E R

IT IS ORDERED that:

1. The application of Ron Ratti, dba Airport Transfer, for permanent authority to provide passenger stage service between downtown San Francisco and the San Francisco International Airport (SFO) is denied.

2. Ron Ratti shall cease and desist from providing passenger stage service between downtown San Francisco and SFO. A copy of this order shall be personally served on Ron Ratti.

This order is effective today.

Dated January 19, 1982, at San Francisco, California.

I will file a concurring opinion.

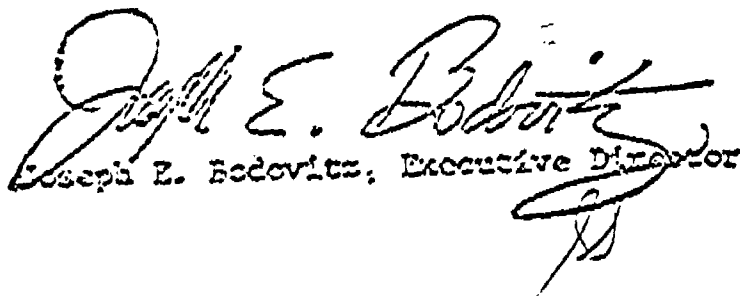
/s/ RICHARD D. GRAVELLE
Commissioner

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
PRISCILLA C. GREW
Commissioners

I dissent.

/s/ VICTOR CALVO
Commissioner

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


Joseph E. Bedovitz, Executive Director

A.60388

D.82-01-102

RICHARD D. GRAVELLE, Commissioner, Concurring:

I concur.

Reluctantly I concur in this decision. Applicant has a troubled history before this Commission, an examination of which would educate anyone interested to the vagaries of regulating a nominal public utility which is actually a highly competitive business. Our previous decision granting applicant authority limited as to time was issued with the hope that he could conform to regulation. This he has not been able to do, resulting in the necessity of today's order. He has, however, apparently been able to provide a good transportation service to the public over the period in question and I submit that his fitness should be judged by that test rather than by how well he keeps his books or what information he supplies to us. I recognize that legislation is necessary to extricate us from regulating service such as that offered by applicant. I also recognize that jealous competitors will fight to resist such legislation, so long as they perceive the regulatory process to provide a means of protecting them in some economic fashion from the test of the marketplace. It would be beneficial if applicant and others of his persuasion could make an effort to convince the legislature of the folly inherent in regulation of the type of business under consideration in this proceeding.


Richard D. Gravelle, Commissioner

San Francisco, California
January 19, 1982