

Decision 82-05-069 May 17, 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AFFILIATED CAB DRIVERS,	)
	)
Complainants,	)
	)
vs.	)
	)
K.T.L. CO. LIMOUSINES [sic]	)
ALLIED LIMOUSINES [sic]	)
V.S.P. LIMOUSINES [sic]	)
HILTON HOTELS CORPORATION	)
(Beverly Hilton)	)
CITY OF BEVERLY HILLS	)
(Director of Transportation)	)
JOHN LOGAN,	)
	)
Defendants.	)

Case 10902  
(Filed August 27, 1980)

James E. Wetherington, for complainants.  
David Gurewitz,<sup>1/</sup> Attorney at Law, for  
Allied Limousine Service, Inc.; and  
Mohamed Alabi Kettani, for K.T.  
Limousine Service; defendants.  
K. D. Walbert, for Department of Transportation,  
City of Los Angeles, intervenor.  
William Austin and Owen Lee Miller, for  
the Commission staff.

O P I N I O N

Background

Complainant states that it represents approximately 300 taxicab drivers employed by eight taxicab companies. Complainant alleges that Allied Limousine Service, Inc. (Allied), K.T. Limousine

1/ David Gurewitz's request, by letter dated May 12, 1981, to be relieved as attorney of record for V.S.P. Limousine Company (V.S.P.) because he cannot contact Young Tac Moon, V.S.P.'s owner, is granted. V.S.P. has voluntarily suspended its charter-party operating permit.

Service (K.T.L.), and V.S.P. have illegally functioned as taxicab operators and are in violation of Commission orders governing their operations as Class B charter-party carriers of passengers. Complainant dropped its request for a cease and desist order from the Commission prohibiting these illegal activities.

By Decision (D.) 92725 dated February 18, 1981, the Commission dismissed the complaint against the Hilton Hotels Corporation, the City of Beverly Hills, and John Logan because these defendants are neither public utilities nor other regulated businesses over which this Commission has jurisdiction.

#### Summary

Allied, K.T.L., and V.S.P. illegally functioned as taxicabs. They used vehicles resembling taxicabs, primarily through their use of top lights. Allied and K.T.L. are ordered to remove the top lights from their vehicles. They will be required to operate in conformity with the conditions added to their permits in this decision. Similar requirements are made a precondition for lifting of the suspension of V.S.P.'s permit.

#### Alleged Violations

Paragraph 4 of the complaint alleges actions by the three charter-party defendants which show they essentially operate as taxicab operators rather than charter-party carriers:

- a. Use of domes on the roofs of their vehicles;
- b. Use of taximeters in their vehicles;
- c. Responding to whistles or lights calling for a taxi at the Beverly Hilton Hotel;
- d. Blockading (occupying) a private taxi stand which prevents taxis from waiting for passengers; and
- e. Defendants' drivers, operating at the Beverly Hilton Hotel, do not always possess a trip ticket showing the address of the person requesting or arranging the charter and the date the request was made. In addition, defendants' charter-party trip tickets do not show who paid for the transportation or how and when that payment was made.

The complaint further alleges noncompliance with Part 10, Service Regulations, and Part 13, Passenger Charter-Party Records, of the Commission's General Order (GO) 98-A.<sup>2/</sup>  
Preliminary Matters

Gurewitz advised Administrative Law Judge (ALJ) Levander that Allied would prefer to enter into a stipulation to satisfy the complaint to avoid the expenses of a hearing. Complainant objected to that procedure. At that time, V.S.P. had voluntarily suspended its charter-party operating permit and K.T.L. did not have insurance in force. Therefore, V.S.P. and K.T.L. did not have authority to operate as charter-party carriers of passengers.

On May 13, 1981 the ALJ issued a ruling which contained the above-noted list of alleged violations<sup>3/</sup> and set a prehearing conference on May 27, 1981. That ruling states in part:

"If Allied admits to certain actions but contends that it may perform such actions, resolution of the points in dispute may follow oral argument. If Allied stipulates that it will not perform specific actions in the future and that it will operate in full conformity with the relevant portions of Sections 10 and 13 of General Order 98-A, there is no need for hearing on those issues."

\* \* \*

---

<sup>2/</sup> Subsections 10.00, 10.01, 10.02, 10.05, 13.00, and 13.01 of GO 98-A pertain to charter-party operations.

<sup>3/</sup> Complainant did not add to this list.

"Complainant and defendant Allied are each directed to prepare a proposed stipulation, of not more than three pages, for consideration by the Commission at the prehearing conference based upon the specific actions or omissions set forth in the complaint. If Allied admits to certain actions set forth in the complaint which it believes to be lawful, it should state the bases of its contentions. I will permit oral argument and possibly briefs on any points in dispute. If Allied does not file a stipulation or argument on specific allegations contained in the complaint, hearings will be scheduled."

Copies of the ruling were also sent to the last known address of V.S.P. and K.T.L. with instructions to appear at the prehearing conference and make a presentation similar to that described for Allied.

On May 21, 1981 the Department of Transportation, City of Los Angeles (Los Angeles), submitted a petition to intervene in this proceeding. The petition states:

"The Department of Transportation, City of Los Angeles, administers the passenger transportation laws and rules of the City, including franchised taxicab operations. The Department (and its predecessor, the Department of Public Utilities and Transportation) has participated in charter-party carrier of passengers proceedings before this Commission.

"The position of the petitioner is in support of the complainants in that operations of charter-party carrier of passenger permittees should not resemble taxicabs in their appearance or their mode of operations. It is not the intention of petitioner to unduly broaden the issues in this case, but petitioner seeks the right of full participation in the proceeding."

Prehearing Conference

At the prehearing conference Mohamed Alabi Kettani doing business as K.T.L. entered an appearance. He stated that K.T.L. had obtained insurance and that it had valid operating rights. Staff confirmed that statement.

Allied stipulated to all of the alleged violations, except that it sought to continue using top or dome lights on its vehicles. Gurewitz agreed to an addition to Allied's stipulation to include compliance with Part 12.01 of GO 98-A,<sup>4/</sup> which was proposed by staff. Its stipulation includes

---

<sup>4/</sup> "12.01. DRIVER STATUS. Passenger stage corporations and passenger charter-party carriers shall not operate any passenger stage unless the driver thereof is under the complete supervision, direction and control of the operating carrier, and is:

- "(a) An employee of the operating carrier, or
- "(b) An employee of a public transit agency or of another Commission-authorized carrier that owns or possesses the vehicle by virtue of a bona fide full-time lease arrangement of 30 days or longer. This agreement for the utilization of the second carrier's vehicle and driver by the operating carrier shall be evidenced by written contract between the two carriers, or
- "(c) An owner-driver who, himself, holds Commission authority as a specialized charter-party permit carrier, pursuant to Public Utilities Code Section 5384(a). Such owner-driver permit shall be limited to one vehicle."

an agreement that Allied's trip tickets would be in full compliance with Section 13.01 of GO 98-A.<sup>5/</sup> The complaint referred to violations of provisions of GO 98-A in Beverly Hills. Allied agreed to the ALJ's recommendation that any stipulation involving a violation should govern all of Allied's operations.

---

5/ "13.01. CHARTER-PARTY CARRIERS TO MAINTAIN RECORDS OF CHARTER TRIPS. All passenger charter-party carriers shall institute and maintain a set of records which will reflect the following information on each charter performed:

- "1. Name and address of person requesting or arranging the charter and date the request was made.
- "2. Who paid for the transportation and how and when such payment was made.
- "3. How the charge made for the trip was computed.
- "4. Points of origin and destination, mileage of trip and route (listed for each day when charter was overnight or for a longer period).
- "5. Total number of hours the driver was on duty and total driving time; identification of bus or buses used.
- "6. Identification of driver and person, if any, who had charge of the charter group.
- "7. Driver's itinerary, to be completed by the driver, which will list:
  - "(a) All stops, with the time of arrival and departure.
  - "(b) Any supplementary service performed not provided for in the original charter order.
  - "(c) Driver's remarks, if any, regarding the conduct of the charter and performance of the bus."

Allied and K.T.L. challenged James Hetherington's right to hold himself out as representative of a group of taxicab drivers and contend that Hetherington is not, in fact, a taxicab driver. Allied sought a six-month continuance to permit discovery on whether Affiliated Cab Drivers existed as an organization, whether Hetherington could properly represent complainant; and on the issue of dome or top lights.<sup>6/</sup> K.T.L. would not enter into any stipulation on any of the issues raised in the complaint. Complainant sought a stipulation on all issues and an admission of the alleged violations from Allied. Los Angeles proposed a stipulation which went beyond the scope of the issues raised in the complaint,<sup>7/</sup> which are summarized above.

Staff stated that: (1) the Commission had not specifically banned top lights on charter-party vehicles, but had prohibited the use of the words "for-hire" on top lights; (2) the banning of top lights or modifications to the use of top lights was handled on a case-by-case basis; and (3) a substantial number of charter-party limousine operators use top lights.

---

<sup>6/</sup> By ruling dated July 9, 1981, the ALJ denied Allied's request for postponement of the August 10, 1981 hearing to proceed with discovery of the issue of top lights on its vehicles and advised the parties that the Commission would not open an investigation or rulemaking proceeding governing the use of top lights at that time.

<sup>7/</sup> Los Angeles sought a stipulation that complainants would comply with city ordinances and laws, seal odometers and speedometers as required by the California Business and Professions Code, and not decorate their vehicles to be suggestive of vehicles authorized to operate as taxicabs by local ordinances.

Gurewitz stated that the sign on the top lights of Allied's vehicles said "Allied" in front and "Limousine" in back. He argued that he did not see the logic of switching the positions of those words, but that no stipulation on that basis was possible given the participation of Los Angeles as an intervenor seeking to ban top lights. The ALJ overruled Allied's objection and permitted the intervention of Los Angeles in this proceeding. Hetherington indicated that if the Commission would permit the use of top lights by defendants, he would advocate the switch in wording on the top lights, but he would prefer that the Commission ban top lights on charter-party vehicles. Staff and Los Angeles recommended that the Commission open an Order of Investigation to resolve the top light issue. As an alternate, staff suggested banning top lights by a resolution modifying GO 98-A.

#### Hearing

A hearing was held on August 10, 1981 in Los Angeles and was submitted on that date. The scope of the hearing was to take evidence on the use of top lights, which was applicable to all defendants, and to all of the issues relating to K.T.L.'s operations. Neither Allied nor staff appeared or participated at the hearing. Kettani appeared and participated for K.T.L. However, on August 3, 1981 Allied mailed a trial brief to the ALJ, Los Angeles, and complainant. Complainant and Los Angeles called the following witnesses: Hans Kosmali, a taxicab owner-driver; George Cuttrell, the chief public utilities inspector for Los Angeles Department of Transportation; James Washington, a senior public utilities inspector for Los Angeles Department of Transportation; Attila Fenyés, the owner of a charter-party carrier; G. Vincent DeCasar, the owner of a charter-party carrier and of taxicab companies; and Kettani, owner of K.T.L. Kettani was called as an adverse witness by Hetherington. Kettani then called Hetherington as an adverse witness.



Testimony of Complainant

Several of complainant's witnesses testified that taxicabs are generally recognizable both in the United States and abroad by their top lights, flagged meters, and colors.

These witnesses looked at a series of photographs of oncoming taxicabs and charter-party cars. They could identify charter-party limousines without top lights, but could not distinguish between top-lighted charter-party vehicles and taxicabs. They believed that members of the public would have difficulty in distinguishing between taxicabs and top-lighted charter-party passenger vehicles. They described witnessing top-lighted charter-party carriers being hailed down on a for-hire basis or soliciting for-hire passenger business.

Testimony of Los Angeles

Cuttrell and Washington are employed by Los Angeles. They are charged with investigation and enforcement work on complaints and compliance with city ordinances, state laws, orders of the Board of Transportation Commissioners, and compliance with the terms of franchises and permits. Their responsibilities include operations of taxicabs, automobiles for-hire, public transportation vehicles, private ambulances, and the filing of complaints against illegal operators.

They testified that top lights on charter-party vehicles cause confusion. Los Angeles receives many complaints believed to be against taxicab services, which are actually complaints against charter-party vehicles with top lights. The public frequently complains about overcharges, unsafe operation of vehicles, discourtesy, and/or solicitation by such charter-party operators. These witnesses often find charter-party limousines with top lights at taxicab zones, large hotels, cruising at airports, and at all places where there is a high demand for taxicab service.

The witnesses contrasted taxicab and charter-party limousines. Taxicabs are equipped with top lights, taximeters, posted rates, color schemes, and signs to provide ready identification of their for-hire status. Luxury limousines resemble large family automobiles. They operate from garages or approved stands. Their drivers pick up passengers on a prearranged basis. Their charges are based upon time or distance or a combination of these two factors. Charter-party limousines, which do not simulate a taxicab service through the use of top lights, cause no problems for Los Angeles.

Exhibit 3 contains two photographs showing a top-lighted Allied station wagon parked in the red zone at the end of a Union Station taxicab zone. Washington testified that Allied's driver was outside of his car attempting to solicit business. The photographs showed "Allied" printed on the front and rear of the top lights. In Exhibit 5 Washington provided two photographs of an orange charter-party carrier station wagon at Los Angeles Valley College. The word "CHECKER" is on the front top light of the vehicle.

Cuttrell testified that use of limousines with top lights is a form of consumer fraud because the complaints he receives indicate that people who paid charter-party charges believed that the vehicles they hired were taxicabs which charge rates regulated by the city.

Testimony of Defendant K.T.L.

Kettani, called as an adverse witness, testified as follows:

1. Taxicabs display the word(s) "Taxi" and/or a company name on their top lights. However, the words "K.T.L. Limousine Service TCP 1427" on the top lights of his K.T.L. station wagon distinguish his charter-party vehicle from a taxicab.
2. Prior to this proceeding, he operated K.T.L. without keeping any passenger records. Exhibit 4 contains his charter-party records from January to July 1981. The basis of his charges for one trip listed in Exhibit 4 was anything acceptable. On another listed trip he charged \$1 per mile, which is less than taxi fare, and he did not charge for a two-hour waiting period.
3. He uses a taximeter which is kept in the glove compartment of his vehicle.
4. He is not familiar with GO 98-A.
5. He does not have K.T.L.'s TCP number on the side of his vehicle.
6. After dropping off passengers, he will pick up other passengers waiting for a taxicab at that location.
7. He generally obtains customers by waiting at the Beverly Hills Hotel until hotel employees call him. That hotel has no taxicab zone.
8. He distributes K.T.L. cards to customers and to doormen at the Beverly Hills Hotel, but does not advertise in the yellow pages of the telephone directory.

9. His station wagon is smaller than the Allied station wagon shown on Exhibit 5. His vehicle is painted in more than one color.
10. He has been able to distinguish between top-lighted charter-party vehicles and taxicabs since he has been in the charter-party business.

Testimony of Hetherington

Hetherington, called as an adverse witness, testified that he was a taxicab driver at the time the complaint was filed. (He previously stated that he was no longer a taxicab driver.) In response to Kettani's allegation of harassment, Hetherington admitted that several taxicab drivers assisted him in serving a subpoena on Kettani at the area used by taxicabs at the Beverly Hills Hotel. He denied that any of those drivers used their vehicles to prevent Kettani from leaving during service of the subpoena. He further testified that the actions of the taxicab drivers, at the Beverly Hills Hotel, were designed to secure the relief requested in the complaint.

Arguments of Complainant and Intervenor

Kosmali, acting as spokesman for complainant, stated that a very large number of taxicab drivers working for several taxicab companies felt they were being forced out of business by defendants' limousines "playing taxicab", i.e., parking up to eight vehicles in all of the spaces used for taxicab pickups at the Beverly Hills Hotel and at the Beverly Hilton Hotel and keeping taxicabs from picking up customers at those hotels. He also stated that Hetherington actively worked with other taxicab drivers to get defendants out of the taxicab business.

by filing this complaint and by attempting to secure the cooperation of the hotel managements and the City of Beverly Hills. He claims that until recently the hotel managers would not cooperate with the taxicab drivers and the City of Beverly Hills would not act against defendants on private hotel property.

Kosmali claims that after the Beverly Hilton Hotel management banned defendants from the taxicab area on their property, defendants transferred their operations to Los Angeles hotels.

Kosmali stated that Kettani is using an Argo taximeter in his K.T.L. vehicle which records mileage, time of occupancy, and fares, but does not have a flag.

Complainant argues that if defendants' vehicles did not look like taxicabs, they would lose most of their business. Complainant does not want to take limousine business from defendants, but the taxicab drivers, in turn, do not want to lose taxicab business to defendants.

Los Angeles argues that Public Utilities (PU) Code Section 5353(g) recognizes the differences between taxicab transportation service licensed and regulated by a city or county and charter-party carriers. To preserve that difference, the Commission has found that charter-party vehicles may not use top lights in metropolitan areas.

Neither complainant nor Los Angeles seek a revocation of defendants' operating authority at this time, but they want the Commission to require defendants to act as charter-party carriers. Los Angeles recommends that no top lights be permitted on charter-party vehicles except in rural areas.

Arguments of Defendants

Kettani argues that K.T.L. desires top lights to identify its vehicle and to let customers know the vehicle is for-hire. He does not believe that K.T.L. would lose business if he had to remove top lights from his vehicle.

Allied contends that at best, a top light is only a form of advertisement rather than an invitation to the customer on the street to hire the vehicle or limousine on the spot, and that public awareness that limousine service is to be arranged for ahead of time is not changed by the signs on Allied's top lights.

Both Allied and K.T.L. stress that they should be allowed to use top lights since most charter-party vehicles are equipped with top lights.

Allied argues that the Commission ordered the removal of top lights from charter-party vehicles where the words "for-hire" or "vacant" were on top lights or in cases settled by stipulation.

Discussion

Status of Complainant and Hetherington

PU Code Section 1702 states in part:

"Complaint may be made by...any corporation or person, ...by written petition or complaint, setting forth any act or thing done or omitted to be done by any public utility, including any rule or charge heretofore established or fixed by or for any public utility, in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission. . . ."

This text, with minor modifications, is incorporated in Rule 9 of the Commission's Rules of Practice and Procedure. PU Code Section 204 states in part: "'Corporation' includes a corporation, a company, an association, ..." PU Code Section 205 states in part: "'Person' includes an individual, ..."

A complaint may be filed by an individual or association against a charter-party carrier of passengers based on PU Codes Sections 5381 and 5382.<sup>8/</sup> There is no inconsistency between Divisions 1 and 2 of the PU Code preventing the Commission from processing a complaint against a charter-party carrier of passengers.

The answer to the complaint filed for Allied and V.S.P. dated October 14, 1980 alleges that Affiliated Cab Drivers is a figment of the imagination of Hetherington, attempting to act as attorney for a nonexistent entity. Those defendants requested that the complaint be dismissed for lack of standing of complainant who is not the real party in interest.

---

<sup>8/</sup> "5381. To the extent that such is not inconsistent with the provisions of this chapter, the commission may supervise and regulate every charter-party carrier of passengers in the State and may do all things, whether specifically designated in this part, or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."

"5382. To the extent that such are not inconsistent with the provisions of this chapter, all general orders, rules and regulations, applicable to the operations of carriers of passengers under authority of certificates of public convenience and necessity issued pursuant to the provisions of Article 2 (commencing at Section 1031), Chapter 5, Part 1, Division 1 of this code, unless otherwise ordered by the commission shall apply to charter-party carriers of passengers."

Kosmali's statement indicates that complainant is an informal association of a large number of taxicab drivers which seeks relief to prevent defendants from continuing to operate as taxicabs. Affiliated Cab Drivers is an informal association of taxicab drivers with standing to file this complaint.

The complaint raises valid issues about defendants' failure to comply with GO 98-A, the rules and regulations governing their operations as passenger charter-party carriers, and of defendants' unlawful operations as taxicabs. Complainant's witnesses testified they were losing taxicab business as a result of defendants' actions.

The discovery issue on status is immaterial because Hetherington could have filed the complaint as an individual or as a representative of an informal association of taxicab drivers. Hetherington's status as a taxicab driver at any particular time is irrelevant. If Hetherington had filed the complaint as an individual, the Commission would not have been required to dismiss his complaint because of the absence of direct damage to him (see PU Code Section 1703). That issue was recently addressed by the Commission in Paul K. Montgomery v James Water Company, Inc. et al., D.93535 dated October 6, 1981 in Case (C.) 10815, which contains a conclusion of law that complainant (a former



water company customer) had standing to file a (public utility status) complaint against that water company. Mimeo. page 11 of D.93585 states in part:

"We are liberal in viewing the construction of complaints due to our desire to pinpoint and rectify genuine grievances (Utility User's Assistance League v P.T.&T. Co. et al., ..." D.60612 dated August 23, 1960 in C.6333).

Status of Los Angeles

Los Angeles' petition to intervene is consistent with Rule 53. Los Angeles did not unduly broaden the issues raised in the complaint. The ALJ properly permitted Los Angeles' participation in this proceeding.

Discovery

In addition to the status issue, Gurewitz's request for discovery to explore the motives of Hetherington and/or complainant, Los Angeles, and staff appears to be designed to harass the opposition rather than to expedite the proceeding. The Commission will not allow use of discovery to explore irrelevant issues, and to foster delay.

The issue of whether defendants should be permitted to use top lights on their vehicles is a very narrow issue not requiring the discovery process. This issue was posed in the complaint and in the ALJ's ruling of May 13, 1981. We affirm the ALJ's ruling in not extending time for discovery on this issue.

Top Lights

Complainant and Los Angeles established that taxicabs are equipped with top lights, taximeters, posted rates, color schemes, and signs to provide ready identification of their for-hire status. Top lights may be the only feature a potential customer could use to identify taxicabs in an oncoming stream of traffic. Many members of the public cannot distinguish between taxicabs and top-lighted charter-party passenger vehicles. Los Angeles receives many complaints from people entering charter-party vehicles in the belief that they were hiring taxicabs.

Kettani's claims that a top-light sign which shows his company name and TCP number distinguishes his vehicle from a taxicab and that he can tell the difference between top-lighted charter-party carriers and taxicabs are not convincing. The level of recognition of the meaning of a TCP number is likely to be low among California residents and lower still in visitors from other states or countries. There are hundreds of charter-party carriers and many taxicab companies operating in the Los Angeles and Beverly Hills areas.

Los Angeles cited decisions ordering the removal of top lights from charter-party vehicles. Those decisions prohibited use of the words "for-hire" or "vacant" or pertained to cases settled by stipulation. The testimony in this proceeding demonstrates that use of top lights on charter-party passenger vehicles blurs the public perception of differences between charter-party carrier vehicles and taxicabs. The use of top lights creates a potential for misleading the public. It would be desirable to eliminate top lights from all charter-party passenger vehicles operating within the franchised area of any taxicab company to eliminate that potential abuse.

Los Angeles established that an Allied driver operating a vehicle equipped with top light solicited illegal taxicab or for-hire business next to a taxicab zone. Kettani's own testimony establishes that he uses a K.T.L. vehicle, equipped with top light, to conduct an illegal taxicab business. A charter-party may not conduct taxicab activities as described in PU Code Section 5353. The resemblance of Allied and K.T.L. vehicles to taxicabs due to their use of top lights should be discontinued.

Commission Action

Since Allied and K.T.L. committed illegal acts in violation of their charter-party permits, we will amend their respective permits. They will be required to operate in conformity with the conditions in their permits. The conditions required of Allied give consideration to Allied's stipulations and to its unlawful acts. The conditions for K.T.L. are based on its unlawful acts. These conditions should be included in any permit renewals.

We cannot, and will not, condone misconduct by permit holders. However, we are giving consideration to the willingness of complainant and Los Angeles to allow defendants to operate if they operate as charter-party carriers. Kettani is the unsophisticated owner-operator of a small passenger vehicle used in providing for-hire service. We will not seek fines or other sanctions against defendants at this time. However, Allied and K.T.L. are each put on notice that the Commission may act to revoke their operating authority and seek other penalties if they violate the terms of their amended permits. These fines and penalties are set forth in PU Code Sections 5411 to 5419, inclusive.

If V.S.P. seeks to release its permit from suspension, its permit will be amended to incorporate conditions for its operations. These provisions should be incorporated in any permit renewals.

The scope of these conditions is discussed below. The carriers should familiarize their employees with the terms of their permits.

Required Allied Conduct

Complainant and Los Angeles did not agree to Allied's stipulation on top lights. Allied agreed to certain modifications of its stipulation on other issues raised in the complaint. Allied agreed that it would not respond to whistles or lights calling for a taxicab at the Beverly Hilton Hotel and extended the prohibition to any private or public taxicab stand. Allied agreed not to occupy a private taxicab stand which prevents taxicabs from waiting for passengers and extended the limitation to any private or public taxicab stand.

Allied agreed that it would not use any taximeters in its vehicles although it will use odometers to keep track of mileage. The use of odometers in Allied vehicles would be permissible. Los Angeles proposed that no taximeter or similar meter be used in defendants' vehicles for the purpose of displaying to a passenger(s) the elapsed time and/or fare owed. The testimony supports the clarifications sought by Los Angeles and also supports prohibition of flagged taximeters. These types of taximeters should not be used in any charter-party vehicles to maintain an important distinction between the appearances of taxicabs and charter-party vehicles.

In light of Allied's operating as a taxicab just outside of a taxicab zone, the following additional modifications are required:

- a. Allied's drivers should not respond to whistles or lights calling for a taxicab at any location. Its drivers should not solicit or accept for-hire business.
- b. Allied's vehicles should not occupy any taxicab stand, area reserved for taxicabs, or adjacent areas not reserved for charter-party carriers.

This restriction would not preclude Allied's use of a common passenger loading zone, limited to the time needed to drop off or pick up passengers who had made prior arrangements with it.

Based on the discussion on top lights, we will reject the portion of Allied's stipulation which would permit it to use top lights. Allied will be required to remove top lights from its vehicles.

Allied's further stipulations that (1) its drivers shall always possess a trip ticket showing the name and address of the person requesting or arranging the charter, the date the request was made, who paid for the transportation or how and when payment was made, and (2) that it will operate in full conformity with the relevant portions of Parts 10, 12, and 13 of GO 98-A are reasonable and should be adopted. The Part 13.01 record-keeping requirements apply to prearranged charter-party business not to for-hire business. A carrier and/or its drivers cannot legally engage in both activities.

Required K.T.L. Conduct

Kettani's testimony reveals his clear lack of understanding of the differences between taxicab service and charter-party service. He wishes to operate as a charter-party carrier. However, his testimony constitutes an admission that K.T.L. is not operating as a charter-party carrier or as a regulated taxicab service. He operates an unauthorized vehicle for-hire which resembles a taxicab. He does not assess charges on any consistent basis. PU Code Section 5401 requires charter-party carriers to compute and assess charges on a vehicle mileage or time-of-use basis, or on a combination of the two. He has not complied with Part 1.18 of GO 98-A which requires carriers to have a copy of GO 98-A and a current Vehicle Code available to all drivers. His vehicle does

not meet the requirements of Parts 10.01, 10.02, and 10.05 of GO 98-A for displaying a vehicle identification number, name, and assigned symbol and number on each vehicle.

His records are incomplete and not in compliance with Part 13.01 of GO 98-A.

K.T.L. will be required to remove the top light from its vehicle. Its drivers must not solicit or accept for-hire business. Its drivers must not respond to whistles or lights calling for a taxicab.

K.T.L. will be required to charter its vehicle on a prearranged basis. Its charges must be based on PU Code Section 5401. Its vehicle must be dispatched from a garage or stand not reserved for taxicabs. Its vehicle may not occupy taxicab stands, areas reserved for taxicabs, or adjacent areas not reserved for charter-party carriers. Its vehicular use of passenger loading zones should be limited to picking up and dropping off passengers. Its drivers should have a copy of GO 98-A and a current Vehicle Code. Its drivers should have a trip ticket containing the information required by Part 13.01.1 of GO 98-A prior to picking up a charter. The balance of the information required in Part 13.01 should be completed after the trip has ended.

K.T.L.'s vehicle must display an identification number, name, and assigned symbol and number in compliance with Part 10 of GO 98-A.

K.T.L. may continue to use a concealed taximeter in its vehicle.

Required V.S.P. Conduct

Young Tae Moon, V.S.P.'s owner, engaged counsel to file an answer to the complaint. V.S.P. ended communications with its attorney and abandoned its defense. The complaint describes illegal for-hire activities being conducted by Allied, K.T.L., and V.S.P. Hetherington testified that the complaint pertained to the three defendants. The allegations against V.S.P. found in the complaint are true. If V.S.P. meets the usual requirements to release its certificate from suspension, its permit should be amended. The amendment would prohibit it from use of top lights on its vehicles and from use of taximeters. V.S.P. drivers would be prohibited from responding to whistles or lights calling for taxicabs. V.S.P. would have to meet the same vehicular occupancy restrictions as Allied and K.T.L. and it would have to comply with Parts 10 and 13 of GO 98-A.

Findings of Fact

1. Complainant is an informal association of taxicab drivers.
2. Los Angeles filed a timely petition for intervention which did not unduly broaden the issues raised in the complaint.
3. The use of top lights and/or taximeters on charter-party vehicles blurs the public perception of differences between charter-party vehicles and taxicabs.
4. Allied submitted a stipulation based on the issues contained in the complaint. Its stipulation would permit use of top lights on its vehicles. Allied also stipulated that it would comply with Part 12 of GO 98-A. Allied agreed to certain modifications of its stipulation.



5. An Allied driver operating a vehicle equipped with a top light solicited illegal taxicab or for-hire business next to a taxicab zone.

6. Allied's charter-party permit should be amended to incorporate Allied's stipulations modified to conform to the requirements described on pages 21 and 22. Allied should complete the removal of top lights from its vehicles within 15 days after the effective date of this order.

7. K.T.L. is not operating as a charter-party carrier. It is operating an unauthorized vehicle for-hire.

8. K.T.L.'s charter-party permit should be amended to conform to the requirements described on pages 22 and 23. K.T.L. should complete the removal of top lights from its vehicles within 15 days after the effective date of this order.

9. V.S.P. abandoned its defense. V.S.P. has voluntarily suspended its charter-party operating permit.

10. The allegations against V.S.P. set out in the complaint are true.

11. If V.S.P. meets the usual requirements to release its permit from suspension, the permit, and any subsequent renewals, should be amended to conform to the requirements described on page 24.

Conclusions of Law

1. Complainant has standing to file this complaint.
2. Hetherington could have filed the complaint as an individual.
3. Discovery on the status of Hetherington or complainant is immaterial.
4. The Commission is authorized to process a complaint against a charter-party carrier of passengers.
5. Los Angeles was properly permitted to participate in this proceeding.
6. There would be an unwarranted delay to explore irrelevant issues if discovery to explore the motives of Hetherington and/or complainant, Los Angeles, and staff was permitted.
7. The issue of whether defendants should be permitted to use top lights and/or taximeters on their vehicles is a very narrow issue not requiring the discovery process.
8. The text of Allied's stipulations on certain impermissible actions is unduly limited in applicability. Other Allied stipulations require further explanation or amplification.
9. Allied, K.T.L., and V.S.P. violated PU Code Section 5353 and GO 98-A provisions governing charter-party operations. They provided illegal for-hire services. K.T.L. did not comply with PU Code Section 5401.

10. The existing permit authority of Allied and K.T.L. should be amended to conform to the requirements of Findings 6 and 8, respectively.

11. The requirements for lifting the suspension of V.S.P.'s permit should conform to the requirements of Finding 11.

12. Charter-party authority issued by this Commission should include a restriction prohibiting the use of top lights and/or taximeters on all charter-party passenger vehicles.

O R D E R

IT IS ORDERED that:

1. The existing charter-party permit authority of Allied Limousine Service, Inc. (Allied) shall be amended to incorporate the following conditions. Allied shall operate in conformity with those conditions.

- a. Top lights of any configuration or color shall be removed from all Allied vehicles.
- b. Allied's drivers shall not respond to whistles or lights calling for a taxicab at any location. Allied's drivers shall not solicit or accept for-hire business.
- c. Allied's vehicles shall not occupy any taxicab stand, area reserved for taxicabs, or adjacent areas not reserved for charter-party carriers.
- d. Allied shall not use flagged taximeters or taximeters which are used to display to a passenger(s) the elapsed time and/or fare owed.
- e. Allied's drivers shall always possess a trip ticket showing the name and address of the person requesting or arranging the charter, the date the request was made, who paid for the transportation, or how and when payment was made.

- f. Allied shall operate in full conformity with Parts 10.01, 10.02, 10.05, 12.01, and 13.01 of General Order 98-A.
- g. Allied vehicles shall not occupy passenger loading zones, except for picking up and dropping off passengers.

2. The existing charter-party permit authority of K.T. Limousine Service (K.T.L.) shall be amended to incorporate the following conditions. K.T.L. shall operate in conformity with those conditions.

- a. Top lights of any configuration or color shall be removed from any K.T.L. vehicle.
- b. K.T.L.'s drivers shall not respond to whistles or lights calling for a taxicab at any location. K.T.L.'s drivers shall not solicit or accept for-hire business.
- c. K.T.L.'s vehicle shall not occupy any taxicab stand, area reserved for taxicabs, or adjacent areas not reserved for charter-party carriers.
- d. K.T.L.'s drivers shall always possess a trip ticket showing the name and address of the person requesting or arranging the charter, the date the request was made, who paid for the transportation, or how and when payment was made.
- e. K.T.L. shall operate in full conformity with Parts 1.18, 10.01, 10.02, 10.05, and 13.01 of General Order 98-A.
- f. K.T.L.'s charges shall be based upon PU Code Section 5401.
- g. K.T.L.'s vehicle shall be dispatched from a garage or stand not reserved for taxicabs.
- h. K.T.L.'s vehicle shall not occupy passenger loading zones, except for picking up and dropping off passengers.

3. The suspended charter-party permit authority of V.S.P. Limousine Company (V.S.P.) shall not be released from suspension unless the permit is amended to incorporate the following conditions. Any V.S.P. operations shall be in conformity with those conditions.

- a. Top lights of any configuration or color shall be removed from all V.S.P. vehicles.
- b. V.S.P.'s drivers shall not respond to whistles or lights calling for a taxicab at any location. V.S.P.'s drivers shall not solicit or accept for-hire business.
- c. V.S.P.'s vehicles shall not occupy any taxicab stand, area reserved for taxicabs, or adjacent areas not reserved for charter-party carriers.
- d. V.S.P. shall not use flagged taximeters or taximeters which are used to display to a passenger(s) the elapsed time and/or fare owed.
- e. V.S.P.'s drivers shall always possess a trip ticket showing the name and address of the person requesting or arranging the charter, the date the request was made, who paid for the transportation, or how and when payment was made.
- f. V.S.P. shall operate in full conformity with Parts 10.01, 10.02, 10.05, and 13.01 of General Order 98-A.
- g. V.S.P. vehicles shall not occupy passenger loading zones, except for picking up and dropping off passengers.

4. Allied and K.T.L. shall complete the removal of top lights from all of their vehicles within 15 days after the effective date of this order.

5. The staff shall include a restriction prohibiting the use of top lights and/or taximeters in all future charter-party permits submitted for Commission approval and in all existing charter-party permits when subject to annual renewal.

This order becomes effective 30 days from today.

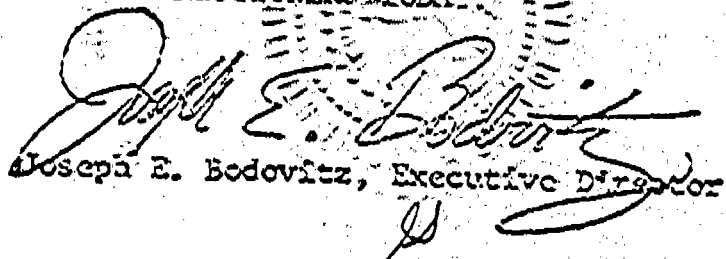
Dated May 17, 1982, at San Francisco, California.

I will file a written dissent.

/s/ RICHARD D. GRAVELLE  
Commissioner

JOHN E. BRYSON  
President  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. GREW  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director

C.10902

D.82-05-069

RICHARD D. GRAVELLE, Commissioner

I dissent.

The majority opinion today extends C.P.U.C. regulation of charter-party carriers to use of such things as "stop lights" and "taximeters" and intimates that the point scheme of charter-party carriers may also be subject to our regulation. I do not believe the C.P.U.C. should concern itself with such questions. Here defendants operated as taxicabs without requisite authority from the local jurisdiction. These local communities should have proceeded in a court of law to seek sanction against defendants and our action should have been restricted to suspension or revocation of the charter-party carrier permits. By taking the course of action set forth in the decision we have created more problems for ourselves, legitimate taxicab operators, and the charter-party carriers. We have done so at a time when our resources to enforce our orders are at an all time low.

  
RICHARD D. GRAVELLE, Commissioner

San Francisco, California  
May 17, 1982

ORIGINAL

Decision 82 05 069 MAY 17 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AFFILIATED CAB DRIVERS, )  
 )  
 Complainants, )  
 )  
 vs. )  
 )  
 K.T.L. CO. LIMOUSINES [sic] )  
 ALLIED LIMOUSINES /sic/ )  
 V.S.P. LIMOUSINES /sic/ )  
 HILTON HOTELS CORPORATION )  
 (Beverly Hilton) )  
 CITY OF BEVERLY HILLS )  
 (Director of Transportation) )  
 JOHN LOGAN, )  
 )  
 Defendants. )

Case 10902  
(Filed August 27, 1980)

James E. Hetherington, for complainants.  
David Gurewitz, Attorney at Law, for  
 Allied Limousine Service, Inc.; and  
Mohamed Alabi Kettani, for K.T.  
 Limousine Service; defendants.  
K. D. Walpert, for Department of Transportation,  
 City of Los Angeles, intervenor.  
William Austin and Owen Lee Miller, for  
 the Commission staff.

O P I N I O N

Background

Complainant states that it represents approximately 300 taxicab drivers employed by eight taxicab companies. Complainant alleges that Allied Limousine Service, Inc. (Allied), K.T. Limousine

1/ David Gurewitz's request, by letter dated May 12, 1981, to be relieved as attorney of record for V.S.P. Limousine Company (V.S.P.) because he cannot contact Young Tac Moon, V.S.P.'s owner, is granted. V.S.P. has voluntarily suspended its charter-party operating permit.



Conclusions of Law

1. Complainant has standing to file this complaint.
2. Hetherington could have filed the complaint as an individual.
3. Discovery on the status of Hetherington or complainant is immaterial.
4. The Commission is authorized to process a complaint against a charter-party carrier of passengers.
5. Los Angeles was properly permitted to participate in this proceeding.
6. There would be an unwarranted delay to explore irrelevant issues if discovery to explore the motives of Hetherington and/or complainant, Los Angeles, and staff was permitted.
7. The issue of whether defendants should be permitted to use top lights and/or taximeters on their vehicles is a very narrow issue not requiring the discovery process.
8. The text of Allied's stipulations on certain impermissible actions is unduly limited in applicability. Other Allied stipulations require further explanation or amplification.
9. Allied, K.T.L., and V.S.P. <sup>PU Code Section 5353</sup> violated provisions of the ~~PU Code~~ <sup>provision</sup> and ~~GO 98-A~~ governing charter-party operations. They provided illegal for-hire services. K.T.L. did not comply with PU Code Section 5401.

4. Allied and K.T.L. shall complete the removal of top lights from all of their vehicles within 15 days after the effective date of this order.

5. The staff shall include a restriction prohibiting the use of top lights and/or taximeters in all future charter-party permits submitted for Commission approval and in all existing charter-party permits when subject to annual renewal.

This order becomes effective 30 days from today.

Dated MAY 17 1982, at San Francisco, California.

I will file a written dissent.

Richard D. Gravelle,  
Commissioner

JOHN E. BRYSON  
President  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. CREW  
COMMISSIONERS

