

Process

TD-10

10-20-82

Decision 82 10 065 October 20, 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)	OII 82-05-02
own Motion into the Operations of)	(Order to Show Cause issued
Ron Ratti, TCP 601.P.)	May 17, 1982)

In the Matter of the Application)	
of Ron Ratti, dba Airport Transfer,)	
for permanent authority to operate)	Application 60388
as a passenger stage corporation)	(Order to Show Cause issued
between the financial district of)	February 8, 1982)
San Francisco and San Francisco)	
International Airport.)	

Appearances in OII 82-05-02

Richards & Weber, by Howard R. Weber, Attorney
at Law, for respondent.
Ray Greene, Attorney at Law, for SFO Airporter,
Inc., and Tony Ruiz, for Lorrie's Travel &
Tours, interested parties. ✓
Lynn T. Carow, Attorney at Law, for the
Commission staff.

O P I N I O N

Decision (D.) 82-05-035 dated May 4, 1982 in Order to Show Cause (OSC) issued February 8, 1982 in Application (A.) 60388 found, among other things, that:

1. Ron Ratti (Ratti) was conducting passenger stage operations between points in San Francisco and San Francisco International Airport without the required authority from the Commission in violation of the cease and desist order in D.82-01-102 dated January 19, 1982 in the same proceeding.

2. Some of these operations were conducted without the insurance required by General Order (GO) 101-C.
3. Ratti holds Charter-Party Carrier of Passengers Permit TCP-601P (charter permit) issued by the Commission.

Ordering Paragraph 1 of D.82-05-035 stated that Ratti was in contempt of the cease and desist order in D.82-01-102 and GO 101-C and directed that he be imprisoned for 30 days and pay \$5,000 in fines. Ordering Paragraph 5 of the decision provided for the suspension and revocation of the imprisonment if the fines were paid within 30 days of the May 4, 1982 effective date of the decision. An Application for Rehearing of D.82-05-035 and amendment to the application were filed by Ratti on June 2 and 11, 1982, respectively. D.82-07-044 dated July 7, 1982 granted a stay of the effective date of D.82-05-035 until further order of the Commission.

OSC issued May 17, 1982 in OII 82-05-02 pointed out that based on the evidence and statements by Ratti in the OSC phase of A.60388 it would appear that the illegal passenger stage operations by him after January 19, 1982 were conducted under color of his charter permit. It also pointed out that such operations violate the legal authority of a charter-party carrier of passengers. This OSC directed Ratti to show cause why his permit should not be revoked under Public Utilities Code Section 5378.

Duly noticed public hearing in the OII 82-05-02 OSC was held in San Francisco before Administrative Law Judge Mallory and Administrative Law Judge Mooney on June 7 and 28, 1982, respectively. No evidence was presented on either day. At the June 28, 1982 hearing a signed written stipulation of facts, issues,

and recommended actions in the rehearing application and amendment in A.60388 and the OSC in the OII was presented by Ratti and the Commission staff. A copy of the stipulation is attached. In essence it provides that:

1. Ratti has relinquished his charter permit and has ceased all for-hire motor transportation of passengers subject to the jurisdiction of the Commission. Any request by Ratti for future authority to operate as a charter-party carrier of passengers, whether individually, or as a member of a group, and/or directly or indirectly, will be by formal application under the provisions of the Commission's Rules of Practice and Procedure and not under the informal method provided for in Commission Resolution PE-303.
2. In view of Ratti's actions and agreements described in paragraph 1, staff recommends that the Commission revoke the imprisonment and fine penalties imposed on Ratti by D.82-05-035.

The two interested parties at the July 28, 1982 hearing also appeared at the OSC phase of A.60388. Both concurred with the stipulation. The only party not represented at this hearing and for whom an appearance was entered at the A.60388 OSC hearing was the City and County of San Francisco. Staff counsel stated that she had discussed the stipulation with the deputy city attorney who had appeared for this party and that he had no objection to it.

We are of the opinion that the recommendations in the stipulation should be adopted. Since the subject matter of the stipulation involves D.82-05-035 and the rehearing application and amendment, as well as OII 82-05-02, the OSC phase of A.60388 is consolidated with the OII for decision here.

Findings of Fact

1. As requested in the amendment to the application for rehearing of D.82-05-035 referred to in paragraph 8 of the attached

stipulation between Ratti and the staff, the effective date of D.82-05-035 has been stayed until further order of the Commission by D.82-07-044.

2. Paragraphs 1 through 9 of the attached stipulation set forth the background for D.82-05-035 and for the issuance of OII 82-05-02 and are adopted as facts.

3. Ratti has discontinued all operations under his charter-party carrier permit and has relinquished the permit to the Commission as stated in paragraph 9 of the stipulation and holds no operating authority from the Commission as stated in paragraph 12 of the stipulation.

4. Ratti agrees, as stated in paragraph 10 of the attached stipulation, that should he request any new charter party carrier of passenger authority directly or indirectly he will file a formal application in accordance with the applicable provisions of the Commission's Rules of Practice and Procedure.

5. Based on the attached stipulation, the staff recommendation in paragraph 13 of it that the fine and imprisonment penalties imposed on Ratti by D.82-03-035 be revoked is reasonable.

Conclusions of Law

1. The Application for Rehearing of D.85-05-035 and the amendment to it should be dismissed.

2. Charter-Party Carrier of Passengers Permit TCP-601p which has been relinquished by Ratti should be revoked.

3. The fine and imprisonment penalties imposed on Ratti by D.82-03-035 should be rescinded.

4. The attached stipulation between Ratti and the staff dated June 28, 1982 should be approved by the Commission and made a part of the order in this proceeding.

O R D E R

IT IS ORDERED that:

1. The Application for Rehearing of D.85-05-035 and the amendment to it are dismissed.

2. Charter-Party Carrier of Passengers Permit TCP-601P issued to Ron Ratti and which he has relinquished is revoked. ✓

3. The fine and imprisonment penalties imposed on Ron Ratti by D.82-05-035 are rescinded.

4. The attached stipulation by Ron Ratti and the Commission staff dated June 28, 1982 is approved and made a part of this order.

5. In all other respects D.82-05-035 shall remain in full force and effect, and that proceeding is closed. ✓

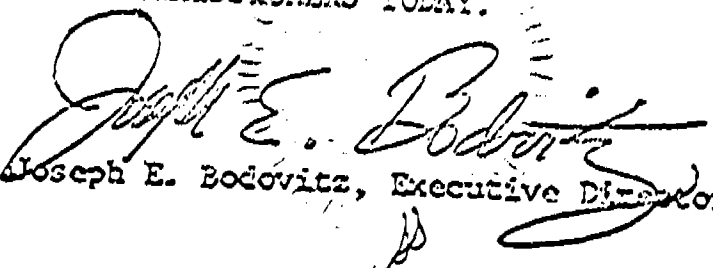
This order becomes effective 30 days from today.

Dated October 20, 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
Commissioners

Commissioner Priscilla C. Grew,
being necessarily absent, did
not participate.

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


Joseph E. Bodovitz, Executive Director

ATTACHMENT

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)

Investigation on the Commission's)
Own Motion into the Operations of)
Ron Ratti, TCP 601.P.)

OII 82-05-02

STIPULATION OF FACTS, ISSUES
AND RECOMMENDED ACTIONS

Respondent Ron Ratti (Ratti) and the Staff of the California Public Utilities Commission (Staff) hereby stipulate as follows:

1. That by virtue of D.90797 (A.57047) dated September 12, 1979, Ratti possessed a temporary certificate of public convenience and necessity as a passenger stage corporation (PSC-1084), to operate between downtown San Francisco and San Francisco International Airport (SFO); this authority expired on March 12, 1981. Subsequent to March 12, 1981, the only operating authority Ratti possessed from the Commission was a charter party carrier of passengers permit, TCP 601.P.

2. That on March 24, 1981, Ratti filed A.60388 seeking permanent authority to operate the same passenger stage service temporarily authorized by D.90797.

3. That on January 19, 1982 after extensive public hearings, the Commission issued D.82-01-102 (A.60388), effective immediately, denying Ratti's application for permanent passenger stage authority, finding that Ratti had operated without authority since March 12, 1981 (Finding of Fact No. 6) in violation of P.U. Code §1031, and concluding "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." (Conclusion of Law No. 9).

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The Commission further found that public convenience and necessity do not require Ratti's service irrespective of his fitness. Finally, the Commission ordered Ratti to cease and desist from providing passenger stage service between downtown San Francisco and SFO. On January 26, 1982, a copy of D.82-01-102 was personally served on Ratti.

4. Subsequently, the Staff conducted an investigation, with the assistance of SFO authorities, including the Airport Police, which, on February 8, 1982, culminated in the issuance by the Commission of an Order to Show Cause re Contempt (D.82-02-068 in A.60388), directing Ratti to appear before the Commission to explain why he should not be found in contempt pursuant to P.U. Code §2113 for the following matters:

- (a) continuing to operate pursuant to PSC-1084 in violation of the D.82-02-102 cease and desist order and P.U. Code §1031; and
- (b) allowing his public liability and property damage insurance to lapse in violation of General Order 101-C (PSC-1084) and General Order 115-B (TCP 601.P), and thereafter continuing to operate without insurance despite suspension for violation of these General Orders.

5. That Ratti appeared and participated in the hearing in the Order to Show Cause proceeding on March 2, 1982, maintaining that all operations conducted by him subsequent to the cease and desist order were pursuant to his charter party authority (TCP 601.P).

6. That on May 4, 1982, the Commission issued D.82-05-035, finding Ratti in contempt of the Commission for violating the cease and desist order in D.82-01-102 on eight occasions and General Order 101-C on two occasions. The Commission ordered Ratti imprisoned for thirty days and imposed a \$5,000.00 fine. The Commission suspended the imprisonment portion of the penalty pending payment of the

ATTACHMENT

\$5,000.00 fine by June 4, 1982, and directed Ratti to bring evidence of such payment to the Commission whereupon the imprisonment portion of the penalty would be revoked. The Commission indicated that the evidence did not establish any charter party carrier operations during the period Ratti's insurance had lapsed (January 5, 1982 to February 15, 1982) and therefore the Commission did not consider questions dealing with contempt under the Passenger Charter-party Carriers' Act (P.U. Code §5331, et seq.).

7. That on May 17, 1982, the Commission issued an Order to Show Cause, OII 82-05-02 incorporating the record from the D.82-05-035 proceeding and directing Ratti to show cause why his charter party carrier of passengers authority (TCP 601.P) should not be revoked forthwith, for lack of fitness, pursuant to Section 5378 of the Public Utilities Code.

8. That on June 2, 1982, Ratti filed an Application for Rehearing of D.82-05-035 alleging the following three grounds:

- (a) that the Commission's imposition of a \$5,000.00 fine and 30 days' imprisonment was excessive; and
- (b) that the Commission did not consider Ratti's efforts to comply with the Commission's order in D.82-01-102 and to operate within the law; and
- (c) that the Commission did not find that Ratti had the intent requisite for guilt for contempt.

The Application for Rehearing did not stay D.82-05-035 and Ratti failed to pay the \$5,000.00 fine provided by that decision by the June 4, 1982 due date. Thereafter, on June 11, 1982, Ratti filed an Amendment to the Application for Rehearing, requesting a stay of the D.82-05-035 provisions relative to payment of this fine. This matter is still pending.

9. At present, Ratti has discontinued all operations under TCP 601.P and Ratti hereby agrees to cease and desist from any future operations under TCP 601.P. Ratti hereby relinquishes Permit No. TCP 601.P to the Commission. Absent this relinquishment

ATTACHMENT

TCP 601.P would have expired on November 5, 1982. The Commission may wish to take official notice of File TCP 601.P wherein this Permit is located.

10. Ratti also agrees that, should he decide to seek future authority from this Commission to operate as a charter party carrier of passengers, whether individually, or as a member of a group, and/or directly or indirectly, he will make formal application for said authority pursuant to Rules 2-8, 15-17, etc. of the Rules of Practice and Procedure. In such event, the Staff recommends that the application be handled formally, rather than in the informal method provided for in blanket Commission Resolution PE-303.

11. In view of Ratti's relinquishment of his remaining operating authority, Staff recommends that the hearing in the Order to Show Cause, OII 82-05-02, relative to TCP 601.P be taken off calendar, and that OII 82-05-02 be concluded with a Commission order incorporating the terms of this stipulation. Ratti agrees with these recommendations.

12. Upon acceptance of this Stipulation by the Commission, Ratti acknowledges he holds no authority of any kind from this Commission.

13. The Staff further recommends that the Commission revoke the fine and imprisonment penalties imposed on Ratti in D.82-03-035, and if the Commission accepts the recommendation of the Staff and revokes all fines and imprisonment penalties then Ratti requests and Staff agrees that the Application for Rehearing and the Amendment thereto be dismissed; for these purposes, this Stipulation should be made part of a consolidated record in A.60388 and OII 82-05-02

Dated: 6-28-82

Dated: 6/28/82

Dated: 6/28/82

Dated: 6/28/82

Ron Ratti
Ron Ratti

Howard S. Weber
Attorney for Ron Ratti

Lynn Theilacker Carew
Lynn Theilacker Carew
Attorney for the Staff
Calif. Public Utilities Comm.

Paul Trahan
Paul Trahan, Asst. Director
Transportation Division
Calif. Public Utilities Comm.

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Decision 82 10 065 OCT 20 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own Motion into the Operations of Ron Ratti, TCP 601.P.)	OII 82-05-02
)	(Order to Show Cause issued
)	May 17, 1982)

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
)	(Order to Show Cause issued
)	February 8, 1982)

Appearances in OII 82-05-02

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at Law, for respondent.
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Inc., and Tony Ring, for Lorrie's Travel &
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Commission staff.

O P I N I O N

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1. Ron Ratti (Ratti) was conducting passenger stage operations between points in San Francisco and San Francisco International Airport without the required authority from the Commission in violation of the cease and desist order in D.82-01-102 dated January 19, 1982 in the same proceeding.

SS 2. Charter-Party Carrier of Passengers Permit TCP-601P *issued* to Ron Ratti and which he has relinquished is revoked.

3. The fine and imprisonment penalties imposed on Ron Ratti by D.82-05-035 are rescinded.

4. The attached stipulation by Ron Ratti and the Commission staff dated June 28, 1982 is approved and made a part of this order.

SS 5. In all other respects D.82-05-035 shall remain in full force and effect, *and that proceeding is closed.*

This order becomes effective 30 days from today.

Dated OCT 20 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
Commissioners

Commissioner Priscilla C. Crew,
being necessarily absent, did
not participate