

Decision 83 03 053 MAR 16 1983**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of James J. Flannery, an )  
 individual, to sell and transfer a )  
 Certificate of Public Convenience )  
 and Necessity (PSC-928) )  
 authorizing his operation as a )  
 passenger stage corporation, and )  
 of Daniel and Ramona L. Pitta, as )  
 a general partnership, to acquire )  
 and control the certificated )  
 passenger stage corporation )  
 operations of James J. Flannery. )

Application 82-08-16  
 (Filed August 6, 1982)

O P I N I O N

James J. Flannery (Flannery), Daniel Pitta, and Ramona Pitta (the Pittas) comprise a general partnership; they have applied for relief. Under the proposal, the Pittas will become the sole owners and operators of a passenger stage corporation (PSC-928)<sup>1</sup> which transports passengers between Benicia and Vallejo under the fictitious name of Benicia-Vallejo Stage Lines. The certificate is now held in Flannery's name. It is alleged that Flannery no longer desires to operate the service but that the public interest requires that it continue to be operated. The Pittas offer to continue the operation as presently established, adopting Flannery's tariffs and timetable.

It is alleged that the Pittas have a personal net worth of \$220,000 including \$8,000 cash.

Applicant's counsel, in a January 21, 1983 letter, explained the background of the application as follows:

<sup>1</sup> The certificate was issued in Decision 81509 in Application 54074 in 1973.

"Apparently, what transpired in 1973 when the Benicia-Vallejo Stage Line was formed was that Dan Pitta, who was then a Benicia Police Captain, put up the money necessary to form the operation, and his brother-in-law, James Jacob Flannery, applied for the P.U.C. license and was the principal operator of the business, under an informal oral partnership arrangement between the two of them.

"From time to time, Mr. Pitta would assist Mr. Flannery in the operation of the Line by filling in as the driver, etc.

"What the parties are attempting to do now is to terminate their informal partnership agreement in such a manner so as to allow Mr. Flannery to release his interest in the partnership to Mr. Pitta, in exchange for his obligation to Mr. Pitta to put up one half of the money originally used to start the business."

There have been irregularities in the inception and conduct of this passenger stage business. None of these irregularities has interfered with regulation or had any adverse impact on the public.

It is therefore appropriate to overlook them and grant the proposed relief without limitations or conditions. The Pittas are, however, admonished that in the future, the Commission must have complete information concerning the control and financing of any regulated carrier business conducted by them.

In addition, the Pittas are placed on notice that a certificate is not merely a license to conduct certain activities; it also constitutes an obligation which must be performed. This obligation is enforceable on behalf of the public affected; failure to perform in conformity with the Public Utilities Code and applicable Commission general orders may result in sanctions, actions for any damages caused, and/or loss or restriction of operating authority.

Notice of this filing appeared in the Commission's Transportation Calendar on August 11, 1982. No protests have been received and a hearing is not necessary.

Findings of Fact

1. The service performed under PSC-928 continues to be required by the public convenience and necessity.
2. Flannery is no longer willing to perform the obligations of a passenger stage common carrier. The Pittas are willing and able to assume those obligations.
3. It is not adverse to the public interest to permit the Pittas to acquire the certificate and assume the obligations of a passenger stage common carrier.

Conclusion of Law

The proposed transfer should be authorized. A public hearing is not necessary.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. By July 1, 1983, James J. Flannery may sell and transfer the operative rights specified in the application to Daniel Pitta and Ramona Pitta (the Pittas).
2. The Pittas shall:
  - a. File with the Transportation Division Passenger Branch written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
  - b. Amend or reissue Flannery's tariffs and timetables, state in them when the service will start; make them effective

10 or more days after this order is effective, and allow at least 10 days' notice to the Commission.

- c. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.

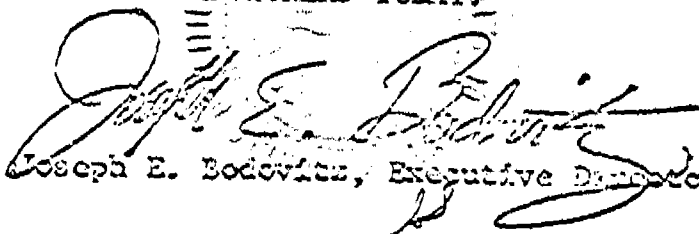
This order becomes effective 30 days from today.

Dated MAR 16 1963, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director