

ORIGINAL

Decision No. 91753 MAY 6 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of THOMAS MUNROE HALL, dba SPEEDY )  
CAR SERVICE, for a Charter-party )  
Carrier of Passengers Permit, )  
North Hollywood (TCP-1195-P). )

Application No. 59174  
(Filed October 3, 1979)

James P. DeMaegt, Attorney at Law,  
for applicant.

K. D. Walpert, for Department of  
Transportation, City of Los  
Angeles; Jack Ohan, for San  
Fernando Yellow Cab Co. and  
Monarch Cab Co.; Michael S.  
Ball, for Valley Checker Cab  
and L. & J Services, Inc.;  
Gordon Matheson, for United  
Independent Taxi Drivers, Inc.;  
James Kernodle, for Checker Cab  
Company of Los Angeles; and  
Harold Martin, for Yellow Cab  
Company; protestants.

William Austin, for the Commission  
staff.

O P I N I O N

Applicant, Thomas Munroe Hall, dba Speedy Car Service, requests a permit to operate as a charter-party carrier of passengers under Section 5384(b) of the Public Utilities Code. Applicant proposes to serve the San Fernando Valley area from headquarters at 7600 Laurel Canyon in North Hollywood. He intends to provide service with eight 9-passenger station wagons and one 4-door, 6-passenger sedan.

The application is protested by the city of Los Angeles (City), San Fernando Yellow Cab Company, Monarch Cab Company, Valley Checker Cab (Valley), L & J Services, Inc., United Independent Taxi Drivers, Inc., Checker Cab Company of Los Angeles, and Yellow Cab Company.

A duly noticed public hearing was held in Los Angeles on November 19, 1979 before Administrative Law Judge Burt E. Banks and on November 20, 1979 before Administrative Law Judge Bertram D. Patrick on which day the matter was submitted subject to the filing of briefs due within two weeks. Sixteen witnesses testified and nine exhibits were received.

The protestants allege that applicant has not established "reasonable fitness and financial responsibility to initiate and conduct the proposed transportation services" (Public Utilities Code Section 5374), and that he will not "faithfully comply with rules and regulations adopted by this Commission" (Public Utilities Code Section 5375) because:

1. Applicant appears to want to operate a taxicab business and is seeking Commission authorization to circumvent the City's laws.
2. Applicant's vehicles are designed to look like taxicabs and mislead the public.
3. He has, for the last six months, been operating an illegal taxicab operation within the City.
4. He does not have a taxicab franchise nor has he sought authority from the City to operate a taxicab business.
5. He has widely advertised his transportation services throughout the San Fernando Valley by placing signs on or near public telephones and covering other companies' advertisements in the yellow pages telephone directory with his stickers.

6. He has eight commercial vehicles and has neither commercial license plates nor insurance.
7. The name Speedy Cab, as advertised by applicant in the yellow pages of the San Fernando Valley telephone directory, is the registered dba of Michael S. and Judith K. Ball which was filed with the county of Los Angeles on February 28, 1979.
8. As an employee of Valley, applicant received a Micon-30 taxicab radio which was never returned and is being used to monitor Valley's frequency to dispatch his cabs to steal Valley's customers.
9. When complaints about applicant's service are received, applicant leads the public to believe that the service complained of was provided by Valley, not Speedy Cab.

Applicant's Testimony

Applicant testified that his real name is Thomas H. Hefferan; that he had used the name Thomas Hall for business purposes for about 15 years and his California driver's license is under the name Hall. He has been in business for himself for about 18 years and for the first 13 years he was an accountant for small businesses. He started driving a cab a little over two years ago. During 1978 he was service manager and later became general operations manager of Valley where he worked until it was sold in late 1978, and he then went into business for himself. Currently he has a permit to provide taxicab service in the city of San Fernando. He presently owns outright nine vehicles listed under Valley Transit, another trade name. Five of the vehicles are now in use and four will be used as soon as this application is granted. He has insurance on the first five and is in the process of getting commercial license

plates. He has the necessary tools and equipment to repair the vehicles and an office. His business address was changed a week before this hearing to 7600 Laurel Canyon in North Hollywood, a former gas station located in a commercial zone. He has assets of approximately \$25,000 and debts of less than \$2,000.

Applicant believes that there is a very definite need in the San Fernando Valley area for the type of service he intends to provide. He testified that a contract has been negotiated and is being prepared wherein Leeway Schools will pay \$10,000 per month for transportation of pupils. He anticipates a number of hospitals and medical centers using his service for non-emergency transportation of patients and specimens. He expects prearranged business from people calling by telephone. Charges will be \$1 per mile plus \$1 when the passenger enters the vehicle.

Regarding use of the name "Speedy", applicant testified that he first thought of the name approximately 10 years ago when he had his accounting business in Washington, D.C., where he had a client who had two businesses, Speedy Auto Service and Super Cab Company. At that time he told his client that the names were reversed and should be changed to Speedy Cab Company and Super Car Service. When applicant decided to go into business in December 1978, he chose the name "Speedy" and placed an advertisement for Speedy Cab Co. and Speedy Cab Service in the yellow pages of the telephone directory on December 18, 1978. He filed a fictitious business name statement for the names (1) Speedy Cab Co., (2) Speedy Car Co., and (3) Valley Transit Co. on March 16, 1979 with Los Angeles County (Exhibit 9). He denied that he was aware that Michael S. Ball or his associates had used the names Speedy Cab Company, Speedy Car Company, or Speedy Car Service in any advertising campaign or any other use. He said

that if he had been approached with complaints, he would have been willing to change and operate under another name. Before using the name, he did check with the telephone company and determined that there was no company with such a telephone listing doing business in the Los Angeles and San Fernando Valley area. The first time he heard any complaint about the name was at this hearing.

Applicant testified that the Micon-30 taxicab radio, which Michael Ball alleges he did not return, was installed in a car owned by Lloyd Conway (the previous owner of Valley), who had his employee James Aubrey remove it. Aubrey told applicant that he was going to install it in a Monarch cab. Conway has not asked applicant to return the radio or pay compensation for it. Apparently Ball believes the radio was included in certain assets which Conway sold him.

Applicant denied that he used that radio or any other radio to monitor taxicab calls. He stated that it is a common occurrence for taxicab operators to find their customer picked up by another cab company because customers call other companies if the cab they called first does not arrive quickly.

The applicant admits that he has operated a taxicab service out of his authorized area and made no effort to conceal the fact. He claims that (1) he was not operating in violation of this Commission's regulations or laws, but rather was operating beyond the boundaries of a valid city of San Fernando taxicab franchise; (2) such operation is not evil by its inherent nature but is wrong simply because he was outside his franchised area; and (3) such violations do not constitute moral turpitude and are not grounds for the conclusion that the applicant lacks moral fitness to operate a charter-party carrier service. He points out that neither he nor his drivers have been cited for safety violations or violations of operating laws.

Testimony of Protestants

Evidence on behalf of the protestants was presented by two employees of the City, twelve representatives from taxicab operations, and one public witness.

Thomas S. Mitsuda of the city of Los Angeles, Department of Transportation, testified that his duties include enforcement investigation of public utility transportation carriers. On November 15, 1979 he was assigned to take a test ride with Speedy Car. He said that he called the telephone number 780-2292 advertised in the yellow pages of the telephone directory dated March 1979 for Canoga Park, North Hollywood, Reseda, Van Nuys, and Agoura (Exhibit 1), which includes the city of San Fernando, and a voice answered "Speedy Car Service". He then told the person answering that he needed a taxicab to take him from the Bob's Big Boy restaurant at 500 North Lankershim Boulevard in the city of Los Angeles to Los Angeles Valley College. He was picked up within 20 minutes and taken to Valley College, a distance of approximately three miles. The driver asked for a fare of \$3.20 and the witness gave him \$4. He further testified that the vehicle was a maroon and white station wagon, License Number 456 GGW (listed in Exhibit 4), with the marking "Speedy Car Company" on both sides and rear. He said that the letter "r" in the word "car" looked like a "b" and the marking could easily be mistaken for Speedy Cab Company.

Nicholas Cerrule of the city of Los Angeles, Department of Transportation, testified that on November 19, 1979 he was assigned to drive to Universal City, the Sheraton Universal, and the Greyhound bus terminal on Riverside Drive and see if he could engage a Speedy Car. He testified that he was unable to find a Speedy Car at Universal City or the Sheraton Universal; however, he found one parked in front of the Greyhound bus terminal. He

approached the driver and asked to be taken to Valley College and back, which the driver did. He was charged \$11.40 for the round trip of approximately nine and one-half miles, including three minutes' waiting time. The witness stated that there was no prearrangement and there was no taxicab meter in the vehicle. However, on the back of the front seats there was a sticker with the name "Speedy Car Company", a phone number, and a notation written in ballpoint pen ink "One dollar plus one dollar per mile". He noted the license number of the vehicle was 115 KIX (listed in Exhibit 4 as a 1972 Chrysler Town and Country station wagon owned by applicant). He did not notice whether there was a taxicab-type radio or a third seat in the vehicle.

Jack Davis Ohan, representing San Fernando Yellow Cab and Monarch Taxicab Company serving San Fernando Valley, testified that applicant was operating (taxicabs) without a permit at the Sheraton Universal Hotel and Universal Studios in the city of Los Angeles. He further testified that applicant had operated illegally for almost six months and was, in his opinion, diverting approximately \$500 a day from franchised taxicab operators who are required to pay franchise fees, have insurance, and maintain vehicles in accordance with the law. He opposes applicant's request for a permit because applicant is operating as a taxicab and not as a charter-party carrier. He, therefore, requests the State and the city of Los Angeles deny applicant a permit and order him to cease and desist his illegal operation.

Nathan Bianco, a taxicab driver for Valley, testified that he has been a driver for almost a year. He receives orders over the taxicab radio to pick up customers and quite a few times, on reaching the pickup location, finds that another taxicab company has picked up the customers. He said that in the last six months this happened about 25 times, and every

time he has seen a Speedy Cab leave the location. Bianco stated that he takes down dates when he has rides stolen, that he has a good memory, and that he has memorized the dates and cab companies involved. He quoted seven dates from memory including locations and times when he had rides stolen. On cross-examination, he was, however, unable to correctly repeat the times and locations to correspond with the dates he previously quoted.

Bianco further testified that he had seen stickers with the words "Speedy Cab or Car Company, 982-3333", placed in the yellow pages of telephone directories on top of the advertisement of Valley. Also, he said that he had seen over 100 such stickers placed on telephones in phone booths in the North Hollywood, Van Nuys, Reseda, Sherman Oaks, and Chatsworth areas.

Ronald Cassesse, a taxicab driver employed by Valley, testified that he worked for Speedy Cab Company for six weeks during the months of May and June 1979. Initially, Speedy Cab and Valet Car Service (Valet) used the same telephones and office at a location on Burbank Boulevard, and the lessor of this office was Royce Richards. There was a radio in this office which was used to pick up other cab companies' calls. He said that sometimes applicant, who was allegedly running Speedy Cab, or Royce Richards, who was allegedly running Valet, would dispatch vehicles to pick up these customers. Cassesse further testified that after a few weeks there was a split between applicant and Royce Richards. Applicant then moved his business to his home at Farmdale Avenue and the witness moved with him. Cassesse said that after the split he did not observe applicant using a radio to monitor taxicab frequencies and there was no "stealing" of other cab companies' customers.



Judith K. Ball, co-owner and administrative officer of Valley, testified that on February 28, 1979 she filed with the county of Los Angeles the following fictitious names (Exhibit 6): Speedy Cab, Speedy Car Company, Speedy Car Service, and Speedy Limo. She stated that she is an attorney, having graduated from a California law school, and that she had researched the fictitious name as required by law and determined it was not in use by anyone else. She stated that in March 1979 she noticed that the yellow pages in the San Fernando Valley telephone directory had a large advertisement by an organization called Speedy Cab Company and that the advertisement gave no address but listed a phone number. She stated she called the phone number several times and from the reply recognized the voices of Royce Richards, a former employee of Valley, and Tom Hall, the applicant who was at the time employed as an independent contractor by Valley. Applicant's contract with Valley was then terminated because she considered his involvement in Speedy Cab a conflict of interest. She said that at the time applicant was terminated, he owed Valley \$420 for one week's lease payment for a vehicle as well as a Micon-30 radio which had been installed in his private car when he was general manager of Valley. She stated that subsequent to applicant's termination, she happened to see the car in which the radio was installed catch fire in the middle of a street intersection, and that after the fire she looked inside the vehicle and observed a radio on the floor similar to the type used by Valley.

Judith Ball further testified that there have been several instances where members of the public with complaints about the service rendered by Speedy Car Service were led to believe that the service was rendered by Valley. She testified

in detail regarding two particular instances and introduced two exhibits (Exhibits 6 and 9) to support her allegations.

Michael S. Ball, appearing for Valley and L & J Services, Inc., protestants, testified that in February or March 1977, when he was working for Valley, he contacted a firm named Marvin Advertising and developed a radio advertisement using the words "For a Speedy Cab Call Valley Cab" and "Your Speedy Car is Available Anytime You Need It". The advertising program was not implemented because he returned to his previous employer, Yellow Cab, which had resumed business after bankruptcy. He alleged that Royce Richards had full knowledge of the advertising program since at that time (1977) Richards was his assistant operations manager at Valley. He said that applicant and Richards, while employees of Valley, made arrangements to advertise in the yellow pages in late 1978 using the name Speedy Cab and then while both were employees of Valley, they went into business in competition against Valley.

Ball conceded that there was a need for limousine service in the Valley to transport school children to private schools (TRP 161).

Protestants presented testimony by seven more witnesses generally along the same lines already described. This testimony need not be discussed since it is cumulative.

Presentation of the Commission Staff

The staff did not oppose the issuance of a charter-party permit. William O. Austin, a transportation analyst on the staff, testified that applicant did meet the financial criteria and that he had no personal knowledge of any moral character or other attributes that would make applicant unsuitable to be a charter-party carrier. He saw no problems with the

way applicant intends to operate in transporting school children. He stated that the staff allowed 20 days to submit an adequate insurance policy prior to issuance of a permit. He further testified that the staff has in the past opposed applications and the staff posture in such matters depends on the extent of violations, the vehicles being utilized, and other acts of applicant. He stated that he had told applicant that he will have to "remove himself from the taxicab arena" and will be required to remove all appurtenances from his vehicles which would confuse the public into believing that his vehicles were taxicabs. He believed there would be confusion in the minds of the public if applicant used the name "Speedy Cab", assuming that applicant had the right to that dba. He stated that applicant had indicated a willingness to make the changes suggested.

Motion for Immediate Cease and Desist Order

On the second day of hearing protestant, Michael S. Ball, alleged that during the noon hour of the same day Speedy Car Limousine Service was picking up passengers from the Greyhound bus station in North Hollywood, and since Speedy Car possessed no authority to pick up passengers within the city of Los Angeles, requested a cease and desist order under Public Utilities Code Section 5371. He was joined in this motion by the City for an immediate cease and desist order. That motion is denied. This Commission looks with disfavor upon requests for cease and desist orders by protestants in application proceedings and will normally require the filing of formal complaints. (My Chauffeur, Inc., Decision No. 83238 (1974) 77 CPUC 230.)

Discussion

This Commission issues permits to operate as charter-party carriers of passengers (Public Utilities Code Section 5384) pursuant to the Charter-Party Carriers' Act which applies only to vehicles with a seating capacity of more than five passengers, excluding the driver (Section 5359). The Charter-Party Carriers' Act does not apply to taxicab transportation service "licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver." (Section 5353(g).) It is undisputed that the City does license and regulate taxicab transportation service.

The Department of Public Utilities and Transportation of the City is responsible for the regulation of vehicles for hire in the City. The Los Angeles Municipal Code Section 71.00 defines taxicabs. Section 71.02(b) of the Los Angeles Municipal Code provides that no person shall operate any taxicab except under and in accordance with terms and conditions of a franchise granted by the City. The Board of Public Utilities and Transportation of the City has adopted orders establishing rates and charges for taxicab service in the City and operator rules and regulations applicable to all taxicab drivers and taxicab operators.

We are urged by the City to refuse the operating authority requested by applicant on the grounds that applicant is unfit because it is alleged that applicant has shown lack of respect for rules and regulations governing his present operations. It is also alleged that applicant will use the Commission authorization, if granted, to circumvent the City's law. We share the City's concerns that charter-party service not be used to duplicate taxicab service subject to local regulation.

In its brief the City cites three prior decisions wherein this Commission denied permits on grounds of fitness. Two of these decisions<sup>1/</sup> involve applicants or their drivers who openly flouted the law and had been cited for various violations. The facts involved in the third decision,<sup>2/</sup> cited by the City, are not on point and need no further discussion. By comparison the applicant's conduct does not evidence the same flagrant and willful disregard for the law. The difference lies in the degree of culpability.

We note that the protestants introduced 13 witnesses and vigorously opposed issuance of a charter-party carrier permit to applicant. All the protestants (except City) are in the taxicab business. According to the testimony of Jack Ohan and Michael Ball, parties holding taxicab permits generally oppose issuance of new permits in order to restrict competition. But in this instance, we are dealing with the issuance of a charter-party carrier permit rather than a taxicab permit and the reasons for taxicab operators opposing issuance of such a permit need some discussion. The answer probably lies in the fact that (1) the parties (excluding City) have had business dealings over the last few years and present relations are less than cordial, and (2) the protestants have a real concern that applicant will use his permit, if granted, to run an illegal taxicab operation. Based on the evidence of applicant's previous performance in the taxicab arena, we agree that protestants' fears are not unfounded.

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<sup>1/</sup> D.84731 dated August 5, 1975 in A.55299 and D.90271 dated May 8, 1979 in A.57708 and A.58035.

<sup>2/</sup> D.88234 dated December 13, 1977 in A.57169.

We cannot, and will not, condone willful misconduct by applicants or permit holders. On the other hand, we should consider each case individually on the facts as presented in order to determine fitness.

Now, turning to the application before us, it is apparent that we have an individual trying to run a small business in a highly competitive area. We believe he should be afforded the opportunity so long as he complies with the law and does not endanger public safety. Therefore, applicant should be granted a permit with the clear understanding that it will be revoked if he uses charter-party service to duplicate taxicab service or operates charter-party service without regard to local ordinance requirements.

Findings of Fact

1. Applicant has shown a need for service to transport children to private schools in the San Fernando Valley. ✓
2. Public convenience and necessity require the kind of service that applicant plans to provide for private school children in San Fernando Valley.
3. Applicant satisfies the requirements for financial responsibility to conduct the proposed service.
4. Applicant has the experience, the vehicles, and the necessary facilities to conduct the proposed service.
5. Applicant has up to thirty days after issuance of this order to furnish satisfactory proof of insurance for all vehicles used in charter-party service before any permit will be issued.
6. Applicant has a permit issued by the city of San Fernando to provide taxicab service within that city.

7. Applicant admits operating taxicab service beyond the boundaries of his permit.

8. The city of Los Angeles has jurisdiction to regulate taxicab operations, including authority to prohibit unlawful operations within its jurisdiction.

9. Prior to this proceeding, no complaints have been filed against applicant either with the City or this Commission.

10. Applicant or his drivers have not been cited for safety violations or violations of operating laws.

11. There is no evidence that public safety or public interest will be impaired if applicant is granted a charter-party permit.

12. Applicant has demonstrated reasonable fitness to operate a charter-party carrier service.

13. Public convenience and necessity require issuance of the sought for authority.

14. This Commission does not have jurisdiction to decide the issue concerning the dba names: Speedy Cab, Speedy Car Company, etc.

15. The following order should be effective the date of signature because there is a demonstrated immediate need for the service proposed.

Conclusions of Law

1. The requested authority should be granted.

2. Such permit will be renewable annually and should be subject to the following conditions:

- (a) The permit shall not authorize the holder to conduct any operations on the property of any airport unless authorized by the airport authority involved, excepting delivery and pickup of persons (and attendant baggage) with whom prearranged charter service has been made. The driver of a charter-party vehicle on airport property shall, on request of any agent of the airport authority involved, show such agent the record of the requested charter. Such record shall comply with General Order No. 98-A, 13.01.1.
- (b) The permit holder shall maintain all records required by General Order No. 98-A, Part 13.
- (c) The permit holder shall comply with local business license requirements.
- (d) Odometers and speedometers in charter-party vehicles shall be sealed as required by the California Business and Professions Code.
- (e) The permit holder shall not paint or so decorate vehicles authorized for use under the charter-party carrier permit issued so as to be suggestive of those vehicles authorized as taxicabs by local ordinances.
- (f) Roof-top lights of any configuration or color which are used to indicate whether or not said vehicle is for hire shall not be permitted.
- (g) The use of a taximeter or similar meter for the purpose of displaying to the passenger or passengers the elapsed time and/or fare owed shall not be permitted.

3. Applicant should file written acceptance of the conditions attached to the permit or such permit shall be cancelled, revoked, or suspended.



O R D E R

IT IS ORDERED that:

1. Thomas Munroe Hall, dba Speedy Car Service, is granted the requested charter-party permit pursuant to Section 5384(b) of the Public Utilities Code with the conditions set forth in Conclusion of Law No. 2. In providing service pursuant to such permit, applicant shall be required to comply with and observe the safety rules administered by the California Highway Patrol, the rules and regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 115-Series.

2. Applicant must file written acceptance of the conditions attached to any permit or such permit shall be cancelled, revoked, or suspended.

The effective date of this order is the date hereof.

Dated MAY 6 1990, at San Francisco, California.

John E. Byron  
President  
Veronica L. Steingard  
Richard W. Howell  
Cherie J. Dequiere  
Edward J. ...  
Commissioners