

ORIGINAL

Decision No. 92727 February 18, 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of YVONNE WALKER and BETTE LERMA dba TRAVEL FANTASIES for certificate of public convenience and necessity to operate service between San Francisco County and points within the State of California.

Application No. 59641
(Filed May 8, 1980)

Yvonne Walker and Bette Lerma, for themselves, applicants.
James D. Clapp, Attorney at Law, for O'Connor Limousine Service, Inc.; and Richard M. Hannon, Attorney at Law, for The Gray Line, Inc.; protestants.
J. Mark Lavelle, for Dolphin Tours, interested party.
R. E. Bouchet, for the Commission staff.

O P I N I O N

Yvonne Walker and Bette Lerma, a partnership doing business as Travel Fantasies (Fantasies), are presently authorized to transport passengers for sightseeing purposes between San Francisco and the wine area of Sonoma County, the Winchester House in San Jose, and the Renaissance West Health Spa in Contra Costa County (D.91812, May 20, 1980). By this application, Fantasies seeks to add four additional sightseeing tours to its certificate of public convenience and necessity: (1) general San Francisco; (2) Marine World/Africa U.S.A.; (3) Muir Woods/Sausalito; and (4) budget San Francisco.

A duly noticed public hearing was held before Administrative Law Judge Wright on July 29 and July 30, 1980. Testimony was received from Yvonne Walker, Ruth Margolies, Barbara C. Rankin, and Patrick J. McEvoy on behalf of Fantasies. Oliver Wright testified

on behalf of O'Connor Limousine Service, Inc. (O'Connor), protestant. James J. Mulpeters gave evidence on behalf of the Gray Line, Inc. (Gray Line), protestant.

Briefs were filed by Fantasies, Gray Line, and O'Connor. A reply brief was filed by Fantasies on October 7, 1980.

During the course of the hearing it was stipulated that Fantasies would not conduct any of its tours in the Japanese language. Dolphin Tours thereupon changed its status from protestant to interested party.

Yvonne Walker (Walker), manager of Fantasies, has worked as general manager for two sightseeing companies in San Francisco for three years, and as a tour guide-driver for one and one-half years. Having utilized Walker's services, Patrick McEvoy, Great American Tour Company, highly recommends her professionalism, stating that he would offer his clients the Fantasies' per capita tours as optionals to his own charter service for corporate clientele. Barbara Rankin, World Dynamics Travel, testified to the good character and reputation of Walker, and stated that Rankin's firm was planning to expand its inbound group charter business and would include Fantasies as available to her customers on a per capita fare basis. Ruth Margolies testified that Walker was responsible, reliable, experienced, and knowledgeable.

Fantasies obtained a permit to operate as a charter-party carrier of passengers on January 25, 1980 and has been conducting charter business since that time. Fantasies has one 14-passenger van under lease and proposes to lease an additional 22-passenger van.

On May 20, 1980 Fantasies received authority to conduct per capita tours to the Sonoma County wine area, the San Jose area, and to a health spa in Contra Costa County.

On July 8, 1980 Fantasies notified the Commission by letter that it was immediately inaugurating the several tours it had applied to serve in this application.

Fantasies' evidence shows that it went into business with a Small Business Administration loan of \$20,000 together with other capital in the amount of \$5,000. Between January and July of 1980 it had revenues of \$5,311 and expenses of \$18,676 - a net loss of \$13,365.

Fantasies' income from the tours authorized by D.91812 is less than \$500, having served only 20 passengers in the two months preceding the hearing. Fantasies' uncertificated service, for which it seeks legitimization here, operated the San Francisco tour 5 or 6 times and the San Francisco/Muir Woods combination tour perhaps 10 times, each time with a passenger count of 8 or less.

Fantasies projects gross income of \$420,480 and expenses of \$420,360 for the next 12 months - a total profit of \$120. However, Fantasies also testified that this projection is "irrelevant" unless the Commission acts to clear the market of the uncertificated tour operators which are handling 250,000 passengers per annum, according to Walker. In the absence of such action on the part of the Commission, Fantasies would not be able to earn a profit in the marketplace.

Appendix A of D.91812 shows that Fantasies is presently required to provide tour service to San Jose on Tuesdays, Thursdays, and Saturdays, to Russian River wine area on Wednesdays, Fridays, and Sundays, and to Renaissance West Health Spa on Tuesdays, Thursdays, and Sundays.

In this application Fantasies seeks to add 7 more additional daily tours within San Francisco, to Muir Woods, and to Marine World/Africa U.S.A.

Clearly, the authorized service and the proposed service cannot be rendered with one vehicle on lease, another proposed to be leased, and \$12,000 remaining as available capital. Fantasies admits, and we find, that it has not the financial resources necessary to make it a viable entry into the competitive local tour market at the service level it proposes.

As Fantasies has not shown that it has the ability to provide the service sought to be certificated, the application must be denied.

Fantasies will be ordered to cease and desist from offering passenger stage service for which it is not certificated. No other issues require discussion.

Findings of Fact

1. Fantasies is a partnership holding certificates of public convenience and necessity to conduct charter-party operations and to provide regularly scheduled per capita tour service to Sonoma County, Santa Clara County, and Contra Costa County.

2. Fantasies has one 15-passenger van and \$12,000 capital.

3. Fantasies has applied for further passenger stage service to points within San Francisco, to Marin County, and to Marine World/Africa U.S.A.

4. Fantasies' authorized operations are conducted at a loss.

5. Fantasies' proposed operations are, in fact, being presently conducted, and at a loss.

6. No evidence was presented to show that Fantasies' losses will not continue, whether or not additional service is certificated.

7. Fantasies has demonstrated that it possesses the experience but not the financial ability to conduct its proposed service.

8. Fantasies should be ordered to cease and desist from providing passenger stage service which has not been previously authorized by the Commission. Because of the necessity to enjoin

these violations, the effective date of this decision should be the date it is signed.

Conclusion of Law

The application should be denied.

O R D E R

IT IS ORDERED that:

1. The application is denied.
2. Yvonne Walker and Bette Lerma, a partnership doing business as Travel Fantasies, and each of them, individually, shall cease and desist from furnishing passenger stage transportation except as authorized in Decision No. 91812, dated May 20, 1980.

The effective date of this order is the date hereof.

Dated FEB 18 1981, at San Francisco, California.

John E. Boyce
President
Michael D. ...
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Commissioners