

Decision 93020

MAY 5 1981

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Lorrie's Travel & Tours, Inc.;
Airport Limousine Service of
Sunnyvale, Inc.; Marin Airporter;
and P.S.P.A. Corporation, dba
Airport Connection,

Complainants,

v

National Executive Services, Inc.,
dba Carey of San Francisco; Ad
Passenger Service, Inc.; Michael
El-Kurd, Donald G. Alexander; Don
G. Alexander Company; Joseph W.
Pargeter,

Respondents.

Case 10951
(Filed February 19, 1981)

ORDER TO CEASE AND DESIST

Each complainant holds a certificate of convenience and necessity to operate as a passenger stage corporation. The operating authorities of the complainants are generally as follows:

- a. Lorrie's Travel & Tours, Inc.: Airport shuttle services between points in San Francisco County, on the one hand, and the Oakland and San Francisco International Airports, on the other hand.
- b. Airport Limousine Service of Sunnyvale, Inc.: Airport shuttle service between points in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, on the one hand, and Oakland, San Jose, and San Francisco Airports, on the other hand.
- c. Marin Airporter: Airport shuttle service between Marin County, on the one hand, and the San Francisco International Airport, on the other hand.
- d. P.S.P.A. Corporation: Airport shuttle service between Contra Costa, Alameda, San Mateo, and Santa Clara Counties, on the one hand, and the Oakland, San Jose, and San Francisco International Airports, on the other hand.

Defendant, National Executive Services, Inc. (NES), holds a certificate of public convenience and necessity to operate as a passenger stage corporation granted by Decision 76147 in Application 50494. NES's certificate provides that:

"National Executive Services, Inc., ...is authorized to transport passengers and their baggage between points in the Counties of Santa Clara, San Mateo, San Francisco, Marin, Alameda, and Contra Costa, on the one hand, and the San Francisco International Airport, Oakland International Airport, San Jose Municipal Airport, Palo Alto Airport, Hayward Airport, San Carlos Airport, Buchanan Field at Concord, and Fremont Railway Station, on the other hand.

- "(a) No passengers shall be transported except those having point of origin or destination at one of the above specified airports.
- "(b) No passengers shall be transported between the Corte Madera Shopping Center in Marin County and the San Francisco International Airport.
- "(c) No service shall be provided from the San Francisco International Airport to San Francisco unless provided pursuant to a reservation placed at least two hours prior to pickup.
- "(d) When service is rendered on an "on-call" basis tariffs and timetables shall show the conditions under which such "on-call" service will be operated.
- "(e) Service shall be provided with vehicles seating no more than nine passengers including the driver."

The verified complaint alleges that on December 19, 1980 Don G. Alexander Company, purporting to act for NES, signed an agency agreement with Joseph W. Pargeter authorizing Pargeter to act as the agent of NES. A copy of the agency agreement is attached to the complaint.

Michael El-Kurd is the president and shareholder of Ad Passenger Service, Inc., which has a charter-party carrier of

passengers permit from this Commission. The mailing address of Ad Passenger Service, Inc. is P. O. Box 11357, San Francisco, California 94101, and the terminal address is 400 North Point, Room 101, San Francisco, California 94101. Ahmad A. Shehadeh is the vice president, secretary, and treasurer of the corporation. A sales brochure of NES identifies Michael El-Kurd as the Operations Manager of NES. The cover page of that brochure is attached to the complaint. Complainants also allege that Michael El-Kurd has represented himself as being a "partner" in NES.

The complaint alleges that the NES operating authority became dormant and should be revoked. It also alleges an unlawful transfer of control of the operating rights. Resolution of these portions of the complaint must await a hearing on their merits.

The complaint also alleges that even assuming the NES operating authority to be operative, the defendants are committing acts in violation of law and should be ordered to cease and desist from this conduct.

An affidavit attached to the complaint indicates that the defendants are conducting operations with vehicles having a seating capacity of 14 persons plus the driver. A NES brochure attached to the complaint and receipts for transportation attached to the affidavit indicate that NES is charging fares that are not authorized in its tariff on file with this Commission.

The complaint was filed on February 19, 1981. The Commission directed the defendants to answer the complaint on February 24, 1981. None of the defendants has filed an answer to the complaint.

The Commission is of the opinion that good cause has been shown for the issuance of a cease and desist order.

IT IS ORDERED that:

1. National Executive Services, Inc., dba Carey of San Francisco; Ad Passenger Service, Inc.; Michael El-Kurd, Donald G. Alexander; Don G. Alexander Company; Joseph W. Pargeter, and any

person, corporation, or entity acting as its agent, partner, joint adventurer, or in any capacity in connection therewith shall cease and desist from the following: (a) conducting any operations purported to be conducted under the NES operating rights in vehicles seating more than nine passengers, including the driver, (b) conducting any operations under the NES operating rights at fares other than those authorized in the NES tariff on file with the Commission, and (c) conducting any passenger stage or charter-party carrier operations not authorized by law.

2. A hearing to inquire whether this cease and desist order should be continued in effect or terminated shall be held before Administrative Law Judge Donald B. Jarvis on Thursday, May 21, 1981, at 9:30 a.m. in the Commission Courtroom, 350 McAllister Street, San Francisco, California.

3. The Executive Director is directed to serve a certified copy of this order on each defendant by certified mail, pursuant to Section 415.40 of the Code of Civil Procedure. ✓

4. Complainants may cause copies of this order to be personally served on the defendants or any person, corporation, or

entity acting as its agent, partner, joint adventurer, or in any other capacity in connection therewith. Complainants shall file with the Commission proof of any such personal service which may be made within 5 days of such service.

This order is effective today.

Dated MAY 5 1981 , at San Francisco, California.

John E. Bayne
President
Richard N. Howell
Thomas W. San
Victor Calvo
Presume C. Green
Commissioners