

ORIGINAL

Decision 93762 NOV 13 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CITY OF BEVERLY HILLS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 JAMSHID ANVARIPOUR, doing )  
 business as TIFFANY TOUR AND )  
 TRAVEL SERVICE, INC., )  
 )  
 Defendant. )

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Case 10923  
(Filed May 13, 1981)

Jack Allen, Sr., Assistant City Attorney,  
 for City of Beverly Hills, complainant.  
Jerry H. Green, Attorney at Law, for  
 defendant.

O P I N I O N

Complainant City of Beverly Hills (City) alleges that Tiffany Tour and Travel Service, Inc. (Tiffany) (erroneously named in the complaint as Jamshid Anvaripour, doing business as Tiffany Tour and Travel Service, Inc.) has willfully and knowingly violated the conditions of its certificate of public convenience and necessity in the operation of its Tour 1 by operating on streets in the City, more specifically on North Roxbury Drive, which is not set forth as a permitted route in its certificate.

Defendant Tiffany in its answer admits that it operated on North Roxbury Drive on March 6 and March 16, 1981 which is not listed on its authorized routes. However, Tiffany alleges, as a separate affirmative defense, that it has always instructed its drivers concerning its authorized routes but that

some drivers chose to ignore those instructions. Tiffany further alleges that when it became aware of this complaint, it immediately distributed a memorandum to all employees, warning of termination if any employee ignored its instructions to not use Roxbury Drive.

After due notice, a public hearing was held in Los Angeles before Administrative Law Judge William A. Turkish on August 20, 1981 under Public Utilities Code Section 1702, and the matter was submitted on August 28 following the receipt of concurrent briefs.

Maynard Britton, a resident of City, testified on behalf of City and Donald Gray, chairman of the board of Tiffany, testified on its behalf.

Britton testified that on March 6 and again on March 16, 1981 he observed a Tiffany bus on North Roxbury Drive in the City. On the March 16 sighting, he observed that a police officer had stopped the bus and appeared to be issuing a citation to the driver. Britton stated the driver of the van bus was Jamshid Anvaripour, whom he recognized from a previous Commission hearing on Tiffany's application for a certificate in which Anvaripour testified and identified himself as president of Tiffany.

The witness testified he again observed two Tiffany buses, in caravan, on North Roxbury Drive on May 12, 1981. He observed the buses, bearing the name Tiffany Tour Bus Lines, traveling north on North Roxbury Drive, making a turn on Benedict Canyon, and returning on North Roxbury Drive in the opposite direction.

Donald Gray testified that Tiffany continually instructs its drivers concerning each route and admitted that North Roxbury Drive was not on its City tour route. He stated that he did not know who the drivers were on March 6 and 16 but thinks it was the same driver on both occasions who is no longer working for Tiffany. He again reiterated that it is not company policy for its buses to drive on North Roxbury Drive; that the drivers have never been instructed to drive on North Roxbury Drive; and that there is no economic benefit to the company for its buses to drive on North Roxbury Drive. The witness identified Exhibit 2 as a memorandum signed by Jamshid Anvaripour, president of Tiffany, to Tiffany's employees, dated May 21, 1981, which prohibits any vehicle owned by Tiffany from using Roxbury Drive and warning that any employee who violates the memorandum will be terminated. According to Gray, although he does not know for a fact that Anvaripour was not driving on North Roxbury Drive on March 16, it would have been very unlikely for Anvaripour to have been driving a Tiffany bus. Gray did admit that Anvaripour does drive a bus occasionally. He stated that subsequent to March 16, 1981, no Tiffany bus has been on North Roxbury Drive, although sometimes a driver can be influenced by the tourists on the bus concerning the street he drives on. When asked why a driver would use North Roxbury Drive instead of the authorized route, the witness stated that possibly the drivers of the buses who used North Roxbury Drive had formerly been drivers for The Gray Line Tours Company which has North Roxbury Drive as part of its route.

Discussion

Although Tiffany's Tour 1 permits Tiffany to drive in the City, it is restricted to travel only along certain designated streets in the City. This is the only tour operated by Tiffany which has a route through the City. Tiffany admits that on March 6 and March 16 its buses were traveling on North Roxbury Drive, a residential neighborhood street, in the City but denies that these violations were company-authorized. Denial of Tiffany's chairman of the board that any company bus has been on North Roxbury Drive subsequent to March 16, 1981 was rebutted by the direct testimony of witness Britton who positively identified a Tiffany van bus and a bus driving first in one direction on North Roxbury Drive and then turning around and traveling in the opposite direction on North Roxbury Drive on May 12, 1981.

Furthermore, the testimony of Gray that it was unlikely that Anvaripour, president of Tiffany, would have been the driver of the Tiffany bus on North Roxbury Drive on either March 6 or 16, 1981, was convincingly rebutted by witness Britton who recognized the driver as being the same Anvaripour, president of Tiffany, who testified on behalf of Tiffany during Commission hearings on Tiffany's application for a certificate. Britton was present at those hearings.

We are not convinced, as Tiffany's witness would have us believe, that the violations on March 6 and 16, 1981 were without company authorization and that the drivers on those occasions could probably have been influenced by the bus passengers to drive on North Roxbury Drive instead of on Beverly Drive, the authorized route. This argument further loses credence by the fact that Tiffany's president was identified as the violating driver on

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March 16, 1981. Likewise, the memorandum of Tiffany's president, dated May 21, 1981, some eight days after this complaint was filed, which is designed to show that company policy is to terminate any employee who uses Roxbury Drive, is not convincing.

We take note of the following Commission records in connection with previous proceedings involving Tiffany.

In Application (A.) 59560 dated March 31, 1980, Tiffany requested authority to make minor route changes and to lift the restriction on the size of its authorized buses. The application made no mention in the main body of any route changes in its City tour. City, long opposed to sightseeing buses traveling upon its residential streets and creating a nuisance, filed a protest to A.59560 after discovering that Tiffany had added Roxbury Drive to its City tour in the appendix without mentioning the requested change in the main body of the application and without any notice to City. Subsequent to the protest by City, Tiffany amended its application deleting Roxbury Drive from its proposal. The Commission's files also contain correspondence from City dated March 31, 1980 in which City complained to the Commission that Tiffany had been observed conducting tours on North Roxbury Drive on weekends and requested enforcement action against Tiffany. In a reply letter dated April 15, 1980 the Commission advised City that Tiffany had been advised to discontinue conducting tours along North Roxbury Drive and that Anvaripour, owner of Tiffany, had agreed to cease the operations. The Commission recommended Tiffany submit an application for authority to provide sightseeing in and around the area of Roxbury Drive if it intended to include North Roxbury Drive in its City route. ✓

Thus, despite the denial by Tiffany's witness of any economic interest or benefit accruing to Tiffany in having its buses travel on North Roxbury Drive, the record is clear that Tiffany has been desirous of operating on Roxbury Drive and has knowingly done so in violation of its authority. For whatever reasons, Roxbury Drive appears to be a popular street for sightseeing tour companies. Its attraction might well be the fact that Roxbury Drive contains the homes of several motion picture personalities. Tiffany's argument that it is not the only sightseeing bus company operating illegally on North Roxbury Drive is no justification for its action. We place all bus companies on notice that operating on routes without authority will be harshly dealt with.

Although we are of the opinion that Tiffany has willfully operated its buses on North Roxbury Drive, we do not believe that revocation of its entire operating authority, as requested by City, is warranted at this time. Instead, a suspension of its authority to operate its Tour 1 for a period of five working days should be sufficient to deter Tiffany from willfully violating its authorized tour routes in the future. Further violations could result in greater suspension or loss of its entire operating authority.

Findings of Fact

1. Tiffany has authority for its Tour 1 which permits it to enter and drive within City along La Cienega Boulevard from the south, then along Wilshire Boulevard westward to Beverly Boulevard, then north along Beverly Boulevard to Sunset Boulevard, then eastward along Sunset Boulevard to La Brea Boulevard in the City of Los Angeles.

2. Tiffany tour buses have been observed traveling along North Roxbury Drive in the City in violation of its authorized route on a number of occasions in 1980 and 1981.

3. The president of Tiffany was the driver of one of its buses operating on North Roxbury Drive on March 16, 1981.

4. Tiffany has admitted its buses have operated on North Roxbury Drive in violation of its authority.

5. Tiffany has knowingly permitted its drivers to operate along Roxbury Drive in violation of its authorized route.

Conclusion of Law

Because Tiffany has knowingly violated its operating authority on more than three occasions, it should have its authority to operate sightseeing Tour 1 suspended for a period of five working days which is deemed reasonable and appropriate for this violation.

O R D E R

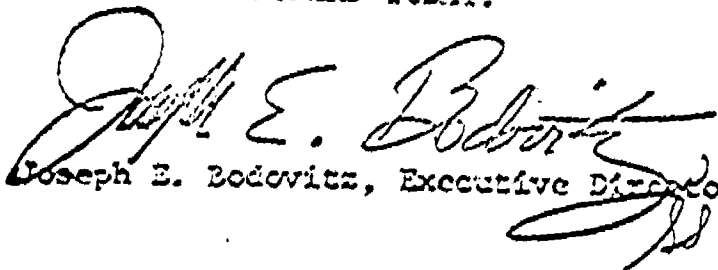
IT IS ORDERED that the authority of Tiffany Tour and Travel Service, Inc. to conduct sightseeing passenger stage operations over and along Route 1, as described in First Revised Page 4 of Appendix A in Decision 90943, is suspended for a period of five consecutive days from the effective date of this order. ✓

This order becomes effective 30 days from today.

Dated November 13, 1981, at San Francisco, California.

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

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

  
Joseph E. Bodovitz, Executive Director