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Decision 95-08-025 August 11, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the operations and practices of Stephan and Antoanet Stephanoff, a partnership, doing business as Desert Cities Shuttle, (Filed September 15, 1994)

Respondents.

ORIGINAL

Stephan Stephanoff and Kelli Tregeagle, for Desert Cities Shuttle, respondents. Carol Dumond, Attorney at Law, Moira Simerson, and Enedina K. Lopez, for the Safety and Enforcement Division.

INTERIM OPINION

Background

We instituted this Order Instituting Investigation (OII) into the operations and practices of Stephan and Antoanet Stephanoff, doing business as Desert Cities Shuttle, on September 15, 1994. The preliminary investigation of the Safety and Enforcement Division (S&E) revealed that respondents may have operated without liability insurance and during suspension of their certificate. The investigation further revealed that respondents may have failed to enroll drivers in the Department of Motor Vehicles (DMV) Pull Notice Program; used drivers whose licenses were suspended; and used one driver determined by the DMV to be a negligent driver. Additionally, the investigation revealed that Desert Cities Shuttle may have operated as a charter-party carrier without authority, operated beyond the scope of its passenger stage authority, failed to post its tariff rates in its vehicles, failed to observe those rates when charging customers, and failed to report its vehicles to the Commission and its insurance company.

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Decision 92-08-022 August 11, 1992

We found these allegations to be very serious, and as a result in the Off we stated, "If at the time of hearing it

appears that the carrier's conduct is as alleged by staff, and that it has continued unabated since issuance of this order, staff should move for an immediate suspension order. In Ordering Paragraph 2, we stated: "... and our ALJ should act expeditiously on any such motion."

S&E made a motion for immediate suspension of Desert Cities Shuttle's operating authority at the hearing, based on its belief that Stephan Stephanoff continues to operate unsafely, to drive negligently, to hire improperly licensed drivers, to violate tariffs, and to perform unauthorized service. At the request of the administrative law judge, the motion was filed in writing on June 16, 1995.

INTERIM OPINION

This interim order addresses only the motion. Final resolution of this investigation will be by further order of the Commission, which will determine whether the suspension should continue, and whether Desert Cities Shuttle's authority should be revoked.

Duly noticed evidentiary hearings were held in San Bernardino from June 6 through June 9, 1995.

Stephan Stephanoff appeared and testified for Desert Cities Shuttle. Antoanet Stephanoff testified telephonically.

S&E presented the testimony of the following persons:

- John Woodward, a former driver for Desert Cities Shuttle,
- Joseph Reynosa, a former dispatcher/reservationist for Desert Cities Shuttle,

Desert Cities Shuttle may have operated as a charter-party carrier without authority, operated beyond the scope of its passenger stage authority, failed to post its tariff rates in its vehicles, failed

1 Antoanet Stephanoff requested that she be allowed to testify telephonically because her life had been threatened by Stephanoff and she feared appearing in person.

of maps of S&E staff persons assigned to the Passenger Compliance Section:

- Investigator Enequina Lopez
- Senior Investigator Charles Kirksey
- Senior Transportation Rate Expert Moira Simmerson
- and Associate Transportation Representative Norman Carter
- Passengers of Desert Cities Shuttle: Nikki Gress, Nancy Peterson, and Dorothy Harte

Sergeant Elliot Wade, of the Los Angeles Department of Airports

Antoanet and Stephan Stephanoff are shown as respondents in this investigation, since the passenger stage corporation authority PSC 7255 was granted allowing them to operate as a partnership doing business as Desert Cities Shuttle. The Stephanoffs were married at the time and continued to operate as a partnership after their divorce. Now Antoanet Stephanoff states that she has no interest in, is not involved in the operation of, and receives no compensation from Desert Cities Shuttle. She testified that the operations were always handled by Stephan Stephanoff.

Unless otherwise indicated, subsequent references to respondent or Stephanoff refer to Stephan Stephanoff.

This decision considers only the motion and testimony and evidence relevant to it.

2 Gress was allowed to testify telephonically at her request.

The following problems of Desert Cities Shuttle appear to continue.

1. Respondent is not operating safely. An accident occurred on October 1, 1994 near Palm Desert, in which he was found to be in violation of Vehicle Code § 22350 for driving a vehicle at a speed which is unsafe for prevailing conditions. Nancy Peterson, a passenger in the van at the time of the accident and who was injured, testified that he asked her to say that he was cut off. She further testified that there were two close calls even before the accident and within minutes of the beginning of the trip. Stephanoff responded that the accident was a very small percentage of his driving and he was upset at that time because Antonet had left him the day before.

Testimony of passenger Gress further substantiates the unsafe operations of Stephanoff. Gress testified that on November 11, 1994, she was transported from Thousand Palms to Ontario International Airport and returned to Thousand Palms on November 13. On both dates she sat directly behind the driver, Stephanoff, and noticed that the speedometer registered 80 to 90 miles per hour (mph). During these trips, she heard Stephanoff brag to his front seat passenger, apparently an employee of Desert Cities Shuttle, that he can recognize California Highway Patrol cars, and that he can get his citations dismissed by going to court claiming that he does not understand English, and that he needs an interpreter. This finally exhausts the system and the citations are dismissed, according to Stephanoff.

2. Respondent continues to operate in violation of Public Utilities (PU) Code § 494, which requires that common carrier charges or compensation shall not be different than the applicable rates, fares, and charges specified in its schedules filed and in effect at the time. Respondent has continued to charge rates

that are higher than tariff rates and a 15% gratuity is demanded of passengers in advance.

Passenger Gress testified that independent Gress was charged \$35 each way, while the tariffs allow \$30 and have no provision for a mandatory gratuity.

Passenger Dorothy Harte testified that she arranged to be transported on January 9, 1995 from Palm Springs to Tustin, with return the same day. She was told that the fare would be \$100 round trip or \$55 one-way. Upon the return to Tustin, the driver, Stephanoff, demanded \$126.50. When she asked what the additional \$26.50 was for, he replied that it was for taxes. Desert Cities has no tariff for Tustin, the nearest authorized area to Tustin is the John Wayne Airport, which has a tariff rate of \$40 each way, with no round-trip discount.

Service is offered to areas beyond those authorized, in violation of PU Code §1031, which requires that passenger stage corporations have a certificate of public convenience and necessity authorizing its service. The transportation provided to Harte was to an area not authorized in PSC 7255.

**Discussion**  
S&E's motion was made seeking immediate suspension of Desert Cities shuttle's operating authority prior to the final disposition of this investigation, realizing that the final decision in this investigation may not be issued for several months.

Stephanoff has demonstrated lack of concern for the safety of his passengers. He not only had an accident in which he was found to be at fault for driving too fast in light of the road conditions, but he demonstrated little concern over it, feeling that since his insurance paid for the damages, it was not a problem. Passenger Peterson was seriously injured in the accident

and testified that she still has physical problems resulting from it.

Passenger Gress testified that respondent drove at excessive and illegal speeds on separate occasions. Stephanoff's only response is that the speedometer only registers to 80 mph, so he was not able to explain how the customer saw higher speeds?

Although the safety concerns are clearly sufficient to suspend Desert Cities Shuttle's operating authority, we are also concerned with other violations.

Stephanoff provides transportation to areas for which he is not authorized. (His defense is that the customer received the service and therefore it was alright in his view.)

Stephanoff charges fares that are not authorized and demands a gratuity in advance. He defends not having tariffs on file that reflect rates he charges as the fault of staff, claiming he gave them the filings, or was assured by staff that they were authorized. Regarding the mandatory 15% gratuity, his justification is that this gratuity is customary in the business.

Stephanoff's credibility is compromised by his claims about lack of fluency and understanding of English, which he uses to explain many problems he has encountered. Stephanoff requested and was granted delays in the evidentiary hearings in this matter for several reasons including his alleged need for a Bulgarian interpreter. He had no interpreter at the hearing and appeared to be fluent and to speak English very well, albeit with an accent. He graduated from the University of Birmingham, England, in engineering.

Stephanoff has a propensity to blame problems on others. He blames his operational problems on the fact that no one from the Commission gave him training or a manual on how to operate.

Stephanoff does not assume the necessary level of responsibility to provide safe and legal passenger transportation. Passenger Peterson was seriously injured in the accident.

in our view, and is unfit to continue to provide passenger service at this time.

We conclude that to protect the safety of the travelling public, Desert Cities Shuttle's authority should be suspended pending the final determination of this investigation. We would not be properly carrying out our responsibility to protect the travelling public if we failed to suspend his authority and allowed his operation to continue.

Findings of Fact

1. Stephanoff drives unsafely and too fast for conditions.
2. Stephanoff continues to violate tariffed rates and authorized service areas.
3. Stephanoff demonstrates a lack of concern for and an unwillingness to abide by laws, rules, and regulations in the operation of Desert Cities Shuttle.

Conclusions of Law

1. Desert Cities Shuttle's operating authority should be suspended at this time, pending the final resolution of this investigation.
2. Because of the concern for public safety, this order should become effective on the date signed.

1 CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

*Walter ...*  
Acting Executive Director

in our view, and is hereby provided as an INTERIM ORDER until such time as the Commission receives the information necessary to provide passenger service at this time.

IT IS ORDERED that the operating authority of Antwanet and Stephan Stephanoff, a partnership doing business as Desert Cities Shuttle, under Passenger Stage Certificate PSC 7255 issued on November 1, 1991, is suspended until further order of the Commission.

This order is effective today.

Dated August 11, 1995, at San Francisco, California.

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2. Stephanoff continues to violate tariffed rates and

DANIEL W. FESSLER  
President

3. [Illegible] states a lack of concern for and an

JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
Commissioners

unwillingness to enforce laws, rules, and regulations in the operation of the shuttle.

(Continuation of law

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COMMISSIONERS TODAY

*Wesley Franklin*  
Acting Executive Director