

Decision 99-11-046 November 18, 1999

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,

Respondents.

Investigation 94-09-022
(Filed September 15, 1994)

Stephan Stephanoff and Kelli Tregeagle, for Desert
Cities Shuttle, respondents.

Carol Dumond, Attorney at Law, and Moira
Simmerson, and Enedina K. Lopez, for Safety and
Enforcement Division.

OPINION

Background

The Commission issued an Order Instituting Investigation (OII) into the operations of Stephan and Antoanet Stephanoff, a partnership, doing business as Desert Cities Shuttle (Desert Cities) on September 15, 1994. The OII was instituted to determine whether Desert Cities violated numerous regulations, including operating without liability insurance, operating when its certificate was suspended, failure to enroll drivers in the Department of Motor Vehicles (DMV) Pull Notice Program, and using drivers with suspended licenses. The OII was served on Stephan Stephanoff and Antoanet Stephanoff on October 14 and 27, 1994, respectively.

Antoanet and Stephan Stephanoff are shown as respondents to this investigation. The passenger stage authority was granted to their partnership. The partnership was entered into when respondents were married. According to testimony by Antoanet Stephanoff, they continued to operate as a partnership after their divorce, although operations were handled by Stephan Stephanoff. At the time of hearings, Antoanet Stephanoff testified that she had no interest in, was no longer involved in, and received no compensation from Desert Cities. In light of this testimony, subsequent references to respondent refer to Stephan Stephanoff.

A prehearing conference (PHC) was held before ALJ Stalder on April 4, 1995 in San Bernardino, California. Duly noticed evidentiary hearings were held June 6 through 9, 1995 in San Bernardino. At the hearing and in writing on June 16, 1995, the Safety and Enforcement Division (S&E)¹ moved for immediate suspension of Desert Cities's operating authority based on the belief that respondent continued to operate unsafely, drive negligently, and hire improperly licensed drivers, among other charges.

On August 11, 1995, this Commission issued Decision (D.) 95-08-025 which ordered that the operating authority of Antoanet and Stephan Stephanoff, a partnership doing business as Desert Cities, be suspended until further order of the Commission. D.95-08-025 addressed only the motion for immediate suspension filed by S&E. That decision turned upon evidence proffered at the hearings, which had been fully completed at the time of the interim decision. Briefs were submitted on July 28, 1995.

¹ Safety and Enforcement Division is now called Rail Safety and Carriers Division.

Discussion

The allegations against respondent are very serious, so serious that S&E has sought revocation of respondent's operating authority, with prejudice, as a remedy. The charges against respondent involve behavior that endangers the safety of his passengers and other drivers. In addition, S&E alleged that respondent charged passengers fares in excess of tariffed rates, required passengers to pay a minimum gratuity for service, and charged passengers fares in excess of agreed upon rates at the time of service. S&E has demonstrated that respondent's conduct continued after the issuance of the OII. The respondent's conduct during the hearings demonstrates an ongoing disrespect for the safety of the travelling public and the rules this Commission has established for the passenger carrier industry.

In D.95-08-025, we suspended respondent's operating authority until further order of the Commission. In the interim, respondent's operating authority has been revoked for other reasons. (Records maintained by the Rail Safety and Carriers Division show that Desert Cities's certificate was revoked on January 16, 1997 for failure to maintain evidence of insurance on file with the Commission.) The Commission has no record of Desert Cities conducting business since that time.

Therefore, S&E's primary goal, revocation of respondent's authority to operate, has already been accomplished. The only remaining question before us is whether to extend a finding of prejudice against respondent ever again applying for operating authority. Because of the time that has elapsed since the OII was opened and the fact that Desert Cities is no longer operating, we will now close this investigation without further proceedings and without addressing the merits of the charges brought against respondent. Respondent is placed on

notice that should he apply in the future for a new permit or certificate, the application may be set for hearing to determine his fitness to hold operating authority from the Commission. Such a hearing, whether held in response to a protest by the staff or on the Commission's own initiative, may include an examination of the issues involved in this proceeding as well as any other matters relevant to respondent's fitness to serve the public as a for-hire carrier of passengers.

Motion for Reimbursement of Dorothy Harte

S&E filed a motion for reimbursement of Dorothy Harte for rates paid to respondent in excess of tariffed rates for two trips provided by respondent. Ms. Harte testified that she was charged \$35 each way for service between Palm Springs and Ontario International Airport for two passengers. The tariffed rate for that service is \$25 each way per passenger. Therefore, Ms. Harte is entitled to a refund of \$40 for that trip.

The second trip taken by Ms. Harte on Desert Cities was between Palm Springs and Tustin. Ms. Harte was the sole passenger and agreed to pay \$100 for the round trip service. Upon return to Palm Springs, Ms. Harte testified that respondent demanded payment of \$126.50. Ms. Harte paid only \$100 for the service. Respondent did not hold operating authority to serve Tustin. The closest authorized tariff for Desert Cities was for service between Palm Springs and John Wayne Airport for \$40 each way. Therefore, Ms. Harte was overcharged \$20 for the second trip, for a total of \$60 above tariffed rates for the two trips.

We will order respondent to reimburse Ms. Harte \$60. We place respondent on notice that should he apply in the future for a new permit or certificate, we will review whether he has complied with this reimbursement

order as part of our assessment in determining his fitness to hold operating authority from the Commission.

Comments on Proposed Decision

The proposed decision of ALJ William R. Stalder in this matter was mailed on October 18, 1999 to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. No comments were received.

Findings of Fact

1. The OII was instituted to determine whether Desert Cities violated numerous regulations, including operating without liability insurance, operating when its certificate was suspended, failure to enroll drivers in the DMV Pull Notice Program, and using drivers with suspended licenses.
2. Dorothy Harte was charged a total of \$60 above tariffed rates for two trips.
3. Stephan and Antoanet Stephanoff, dba Desert Cities are no longer operating.

Conclusions of Law

1. Respondent should reimburse Dorothy Harte \$60 for charges above tariffed rates.
2. Because of the time that has elapsed since the OII was opened and the fact that Desert Cities is no longer operating, this investigation should be closed without further proceedings.

O R D E R

IT IS ORDERED that:

1. Respondent shall refund to Dorothy Harte the sum of \$60 within 20 days of the effective date of this order.
2. Investigation 94-09-022 is closed.

This order is effective today.

Dated November 18, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners