

Decision 99-11-048 November 18, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation for Notice of Revocation of Passenger Stage Corporation Certificate and Charter-Party Carrier Permit (PSC/TCO 7569) of Angelo Abed, dba U.S.A. Airporter,

Respondent.

Investigation 94-11-031
(Filed November 22, 1994)

Roni Rotholz, Attorney at Law, for Angelo Abed,
dba U.S.A. Airporter, respondent.

Carol Dumond, Attorney at Law, William Waldorf,
and Richard Molzner, for the Commission Safety
and Enforcement Division.

O P I N I O N

Background

The Commission issued an Order Instituting Investigation (OII) Notice of Revocation of Passenger Stage Corporation Certificate and Charter-Party Carrier Permit (PSC/TCP 7569) of Angelo Abed, dba U.S.A. Airporter (Airporter), on November 22, 1994. The OII was instituted to determine whether Airporter violated numerous regulations, including operating without insurance, operating when its certificate and permit were suspended, failure to enroll drivers in the Department of Motor Vehicles (DMV) Pull Notice Program, and failure to file worker's compensation coverage at the Commission.

Pursuant to the OII, if respondent did not request a hearing within 30 days of issuance of the OII, respondent's operating authority would be revoked with

prejudice. More than 30 days after the OII was issued, respondent requested an extension of time to request a hearing regarding revocation.

A prehearing conference (PHC) was held before Administrative Law Judge Stalder on September 18, 1995 in San Francisco, California. Mr. Abed did not appear but was represented by counsel. Duly noticed evidentiary hearings were held November 13, 1995 in San Francisco. Neither respondent nor counsel appeared. Safety and Enforcement Division¹ (S&E) presented its testimony at hearing. Because respondent did not appear, there was no challenge to the evidence presented by S&E staff.

Discussion

The allegations against respondent are very serious, so serious that the OII seeks revocation of respondent's operating authority, with prejudice, as a remedy. The charges against respondent involve behavior that endangers the safety of his passenger and other drivers.

Shortly after the OII was issued, respondent's operating authority was administratively revoked for other reasons. Records maintained by the Rail Safety and Carriers Division show that Airporter's permit and certificate were revoked effective December 5, 1994 for failure to maintain evidence of adequate liability insurance on file with the Commission. The Commission has no record of Airporter conducting business in recent years.

Therefore, the OII's primary remedy, revocation of respondent's authority to operate, has already been accomplished. The only remaining question before us is whether to extend a find of prejudice against respondent ever again applying for operating authority. Because of the time that has elapsed since the

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

OII was opened and the fact that Airporter 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.

Comments on Proposed Decision

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

Findings of Fact

1. The OII was instituted to determine whether Airporter 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 failure to file workers' compensation coverage at the Commission.

2. Angelo Abed, dba U.S.A. Airporter, is no longer operating.

Conclusions of Law

1. Because of the time that has elapsed since the OII was opened and the fact that Airporter is no longer operating, this investigation should be closed without further proceedings.

O R D E R

IT IS ORDERED that Investigation 94-11-031 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