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EX-9

L/IRA:ddb

FILED

PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JUN 20 1990

Investigation on the Commission's own motion into the operations and practices of Paul James Nave, an individual, doing business as Nave's Limousine Service.

SAN FRANCISCO OFFICE

NO. I. 90 06 039

ORIGINAL

ORDER INSTITUTING INVESTIGATION
AND ORDER TO SHOW CAUSE

Paul James Nave, an individual doing business as Nave's Limousine Service, (Nave) is holder of a charter-party carrier permit under TCP 3617-P. The permit was issued on July 11, 1989 and will expire on December 27, 1991. Nave first was issued charter-party authority by the Commission on December 27, 1985. The carrier's mailing address is 1679 Center Road, Novato, CA 94947. Nave's terminal address is 351 Airport Road, Novato, CA 94947.

On October 23, 1989 and November 29, 1989 the Marin County District Attorney filed criminal complaints against Nave alleging felony drug and weapon charges. Copies of these complaints are attached as Attachment A. On April 3, 1990 in Marin County Superior Court, Nave pled guilty to the charges, specifically, three felony counts of sale of cocaine, one felony count of possession for sale of cocaine, and one felony count of possession of a sawed-off shotgun. A copy of the court record of the plea is attached as Attachment B.

The San Rafael Police Department, the investigating agency in this case, has advised Transportation Division Staff (Staff) that it is their belief that Nave used his limousine business to further his narcotics business, and that Nave's limousine terminal was a site of narcotics activity. A copy of a letter from Captain P. Robert Krolak, San Rafael Police Department, to Staff Investigator Larry McNeely is attached as Attachment C.

Sections 5374 and 5375 of the Public Utilities (PU) Code require applicants for charter-party authority, among other things, to establish reasonable fitness to initiate and conduct the proposed transportation services. The Commission may refuse to issue operating authority to any applicant who has not demonstrated that it possesses the requisite fitness.

In App. of Walter Hoffman ((1976) 80 Cal.P.U.C. 117) we said:

" . . . 'reasonable fitness' connotes more than mere adequacy or sufficiency in training competency, or adaptability to the appropriate technical and vocational aspects of the service to be rendered. It also includes an element of moral trustworthiness, reliance, and dependability. The standards must be based on the interests of the public and distinguished from the interests of the applicant, and the burden rests with the applicant to demonstrate that he is reasonably fit to be entrusted with a renewal of Commission authority."

After the issuance of authority, the Commission exercises continuing oversight of carrier fitness under other sections of law. PU Code Section 5378(a) authorizes the Commission to cancel, revoke, or suspend a charter-party carrier permit or certificate for, among other reasons, failure of a permit or certificate holder to operate and perform reasonable service. Section 5381 gives the Commission power to supervise and regulate every charter-party carrier of passengers in the State and to do all things which are necessary and convenient in the exercise of such power and jurisdiction.

A felony conviction of an owner or those in charge of carrier operations for sale and possession of narcotics and/or possession of a deadly weapon creates a serious question about fitness and may be good cause to revoke the authority of such an existing carrier. Unless the respondent to this investigation can demonstrate to the contrary, we will find that it is not in the public interest for such an individual to operate as a passenger carrier. In this regard, we are mindful that limousine

operators and other charter-party carriers sometimes transport unaccompanied minors, particularly during prom season.

One of Nave's arrests occurred while his renewal for charter-party authority was still pending. Had we known of the arrest, Nave's fitness to serve the public as a charter-party carrier could have been called into question at the time. The fact that a permit was issued to Nave does not preclude us from acting at some later point should we then determine that he is not fit to continue as a permit holder.

The April 3, 1990 plea of guilty to felony charges of sale and possession of narcotics, and possession of a deadly weapon, taken in the absence of any convincing reason to the contrary, provides ample basis to order Nave to show cause why we should not revoke TCP 3671-P.

IT IS ORDERED that an investigation on the Commission's own motion is hereby instituted into the operations and practices of Paul James Nave, doing business as Nave's Limousine Service. A public hearing on this matter shall be held before Administrative Law Judge Watson on Monday, July 2, 1990 at 10:00 a.m., in the Commission's Courtroom at 505 Van Ness Avenue, San Francisco, at which time respondent Nave may appear and show cause why his permit should not be revoked. The respondent has the burden of showing why, given the facts documented by our Staff, the operating authority should not be revoked. Staff, if it elects to do so, may present additional evidence, either by testimony or through documentation, bearing on the fitness of the respondent.

The Executive Director is directed to cause a certified copy of this order to be personally served upon respondent Paul James Navé.

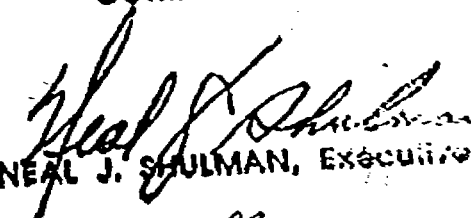
This order is effective today.

Dated June 20, 1990 at San Francisco, California.

FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

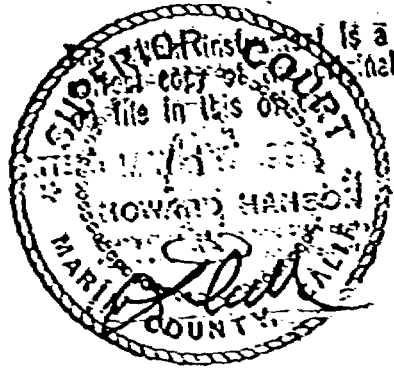
President G. Mitchell Wilk,
be necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director

DB

ATTACHMENT A



FILED

11/24/89
 MARIN COUNTY CLERK
 BY *[Signature]*
 DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF MARIN

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THE PEOPLE OF THE STATE OF CALIFORNIA,)	NO. 11387
Plaintiff,)	INFORMATION FOR
vs.)	VIOLATION OF SECTIONS
NOPE SAWANGWAN, and)	11351 AND 11352 OF THE
PAUL JAMES NAVE, and)	HEALTH AND SAFETY CODE
TEELAPON PON SAWANGWAN,)	AND SECTION 12020(a)
)	<u>OF THE PENAL CODE</u>
Defendants.)	

The District Attorney of the County of Marin, State of California, hereby accuses NOPE SAWANGWAN, PAUL JAMES NAVE, AND TEELAPON PON SAWANGWAN of a Felony, to wit: Possession of Narcotic for sale, in violation of Section 11351 of the Health and Safety Code, in that on or about the 1st day of May, 1989, in the County of Marin, State of California, the said defendants did willfully and unlawfully have in their possession for sale a controlled substance, to wit, cocaine.

It is further alleged that the defendants possessed for sale and sold 28.5 grams and more of cocaine, a substance containing 28.5 grams and more of cocaine and 57 grams and more of a substance containing cocaine within the meaning of Penal Code section 1203.073(b)(1).

SECOND COUNT: And the said NOPE SAWANGWAN and PAUL JAMES NAVE are further accused by the District Attorney of the County of Marin, State of California, by this Second Count of this Information of a Felony, to wit: the Sale or Transportation of a Controlled Substance, in violation of Section 11352 of the Health and Safety Code, in that the said defendants, in the County of Marin, State of California, on or about the 1st day of May, 1989, did willfully and unlawfully transport, import into

1 the State of California, sell, furnish, administer, and give
 2 away, and offer to transport, import into the State of
 3 California, sell, furnish, administer, and give away, and attempt
 to import into the State of California and transport a controlled
 substance, to wit, cocaine.

4 THIRD COUNT: And the said PAUL JAMES NAVE is further accused by
 5 the District Attorney of the County of Marin, State
 of California, by this Third Count of this Information of a
 6 Felony, to wit: Possession of a deadly weapon, in violation of
 Section 12020(a) of the Penal Code, in that the said defendant,
 7 in the County of Marin, State of California, on or about the 1st
 day of May, 1989, did willfully and unlawfully manufacture, cause
 8 to be manufactured, import into the State of California, keep for
 sale, offer and expose for sale, and give, lend, and possess an
 9 instrument and weapon of the kind commonly known as a sawed off
 shotgun.

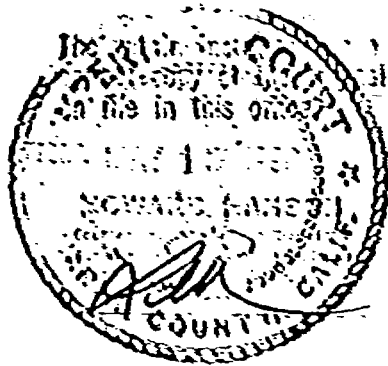
10 The above counts are connected in their commission.

11 All of which is contrary to the form, force and effect
 12 of the statute in such case made and provided, and against the
 peace and dignity of the People of the State of California.

DISTRICT ATTORNEY FOR THE COUNTY OF MARIN
 State of California

By Jerry R. Herms
 District Attorney

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FILED

10/23/89

MARIN COUNTY CLERK
BY *[Signature]*
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN

11	THE PEOPLE OF THE STATE OF CALIFORNIA,)	NO. 11345
12	Plaintiff,)	INFORMATION FOR
13	vs.)	VIOLATION OF
14	PAUL JAMES NAVE aka JAMES PAUL JOSUE,)	<u>SECTION 11352 H&S</u>
15	Defendant.)	

The District Attorney of the County of Marin, State of California, hereby accuses PAUL JAMES NAVE aka JAMES PAUL JOSUE of a Felony, to wit: Sale or Transportation of Narcotic, in violation of Section 11352 of the Health & Safety Code, in that on or about the 20th day of July, 1989, in the County of Marin, State of California, the said defendant did willfully and unlawfully transport, import into the State of California, sell, furnish, administer, and give away, and offer to transport, import, into the State of California, sell, furnish, administer, and give away, and attempt to import into the State of California and transport a controlled substance, to wit, cocaine.

It is further alleged that at the time of the commission of the above offense, the defendant, PAUL JAMES NAVE aka JAMES PAUL JOSUE, was released from custody on bail in case number C8903809 within the meaning of Penal Code Section 12022.1.

SECOND COUNT: And the said PAUL JAMES NAVE aka JAMES PAUL JOSUE is further accused by the District Attorney of the County of Marin, State of California, by this Second Count of this Information of a Felony, to wit: Sale or Transportation of Narcotic, in violation of Section 11352 of the Health & Safety Code, in that on or about the 24th day of July, 1989, in the County of Marin, State of California, the said defendant did willfully and unlawfully transport, import into the State of

1 California, sell, furnish, administer, and give away, and offer
 2 to transport, import, into the State of California, sell,
 3 furnish, administer, and give away, and attempt to import into
 4 the State of California and transport a controlled substance, to
 5 wit, cocaine.

6 It is further alleged that the defendant possessed for
 7 sale and sold 28.5 grams and more of cocaine, a substance
 8 containing 28.5 grams and more of cocaine and 57 grams and more
 9 of a substance containing cocaine within the meaning of Penal
 10 Code Section 1203.073(b)(1).

11 It is further alleged that at the time of the
 12 commission of the above offense, the defendant, PAUL JAMES NAVE
 13 aka JAMES PAUL JOSUE, was released from custody on bail in case
 14 number C8903809 within the meaning of Penal Code Section 12022.1.

15 The above counts are connected in their commission.

16 All of which is contrary to the form, force and effect
 17 of the statute in such case made and provided, and against the
 18 peace and dignity of the People of the State of California.

19 DISTRICT ATTORNEY FOR THE COUNTY OF MARIN
 20 State of California

21 By Terrence R. Bore
 22 Assistant District Attorney

23
 24
 25 END OF ATTACHMENT A

SUPERIOR COURT OF CALIFORNIA, MARIN COUNTY

DATE: APRIL 3, 1990 COURT MET AT 1:50 DEPARTMENT NO. Three
 REPORTER: HON. HENRY J. BRODERICK JUDGE Bettie Weaver DEPUTY CLERK
D. Bartunek REPORTER Robert Diskint BAILIFF

TITLE: PEOPLE OF THE STATE OF CALIFORNIA
 v
 PAUL JAMES NAVE 11345
 PEOPLE OF THE STATE OF CALIFORNIA
 v
 NOPE SAWANGWAN 11387
 PAUL JAMES NAVE

COUNSEL:
 Robert Diskint
 L. Rosen
 Leon, Dep DA

NATURE OF PROCEEDINGS: CRIMINAL JURY TRIAL - 4th Day ACTION NO. 11345
 (CHANGE OF PLEA - BOTH DEFENDANTS) 11387

Court convened on a regular continuance outside the presence of the prospective jurors. Defendants, on bail, present with counsel.

Court advised that defendant Nope Sawangwan wishes to withdraw his plea of not guilty and enter a plea of guilty to Count 2 11352 H&S.

Court advised that defendant Paul Nave wishes to withdraw his plea of not guilty and enter a plea of guilty to all counts and enhancements.

Change of Plea Forms executed by the defendants submitted to the court.

The court advised both defendants of their constitutional rights.

DEFENDANT NOPE SAWANGWAN 11387

Defendant N. Sawangwan advised by the court that the maximum term of sentence could be 5 years State Prison; subject to restitution fine up to \$10,000; must register as narcotic offender; possible immigration consequences; Marin County Jail up to one year as alternative to State Prison; parole period of 3 years.

FINDING: Defendant Nope Sawangwan has a full and complete understanding of his rights and has made a knowing and intelligent waiver of those rights. Motion to Withdraw his not guilty plea is granted.

Defendant Nope Sawangwan with the consent of counsel entered has guilty plea to Count 2, violation of Sec. 11352 H&S, Sale or Transportation of a Controlled Substance.

On motion of the District Attorney Count 1 as to Nope Sawangwan is dismissed and the enhancement is stricken.

Defendant waives time for sentencing.

Matter is referred to the Probation Department for PreSentence Report and the Report and Judgment is set on the calendar for MAY 22, 1990 at 4:00 pm Dept 3.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE
COUNTY OF MARIN

D. APRIL 3, 1990 AT _____ CONTINUE

ABBREVIATED TITLE PEOPLE OF THE STATE v NAVE/SAWANGWAN ACTION NO. 11345
11387

DEFENDANT PAUL NAVE 11345 and 11387

Defendant Nave advised by the court that the maximum term of sentence could be eight (8) years State Prison; subject to restitution fine up to \$10,000; register as narcotic offender; parole period of 3 years.

FINDING: Defendant Nave has a full and complete understanding of this rights and has made a knowing and intelligent waiver of those rights.
Motion to withdraw his not guilty plea is granted.

Defendant Paul Nave with the consent of counsel entered his guilty plea to:

Case 11345 Count 1, violation of 11352 H&S, sale or transportation of narcotic and admits the 12022.1 PC allegation;

Count 2, violation of 11352 H&S, sale or transportation of narcotic and admits the 1203.073(b)(1) PC and 12022.1 PC allegations

Case 11387 Count 1, violation of 11351 H&S, Possession of Narcotic for Sale and admits the 1203.073(b)(1) PC allegation;

Count 2, violation of 11352 H&S, Sale or transportation of narcotic;
Count 3, violation of 12020(a) PC Possession of a deadly weapon.

Defendant waives time for sentencing.

Matter is referred to the Probation Department for PreSentence Report, due 5/18/90, and the Report and Judgment is set on the calendar for MAY 31, 1990 at 4:00 pm Dept 3.

The District Attorney requested that Defendant Nave be remanded into custody.

RULING: Both defendants to remain on established bail.

Defendant Sawangwan is to surrender his passport to the County Clerk by noon April 4, 1990.

The court thanked and excused the prospective jurors from the jury assembly room.

END OF ATTACHMENT B

I.90-06-039

L/ddb

ATTACHMENT C

TO: LARRY MCNEELY, PUBLIC UTILITIES COMMISSION
FROM: CAPTAIN P. ROBERT KROLAK, SAN RAFAEL POLICE DEPARTMENT *PK*
RE: PEOPLE VS. PAUL JAMES NAVE

The San Rafael Police Department has concluded an investigation into Paul James Nave and his business, Nave Limousine. Nave has pled guilty to three counts of sale of cocaine, one count of possession for sale of cocaine and possession of a sawed-off shotgun. Attached to these charges were enhancements for committing a felony while on bail and for the amount of cocaine involved.

During the investigation into Nave and his business investigators observed what they believed to be a narcotics transaction occur at 351 Airport Road, Novato Ca. This is where Nave's business is located. Nave was involved in this transaction.

The Marin County District Attorneys Office has vigorously prosecuted this case and Nave has pled guilty to all of the charges brought against him. He is due to be sentenced on June 11, 1990.

Paul Nave has operated his limousine business in the city of San Rafael for many years. It is the belief of the San Rafael Police Department that Nave has used the limousine business to further his narcotics business. During the first search warrant at the limousine business there were no business records found. Further it is the position of the Police Department that the Public Utilities Commission should take the appropriate action against the state issued license for Nave limousine.

END OF ATTACHMET C