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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation and)
into the operations and practices of)
Lev Gamer, an individual doing)
business as JET SHUTTLE,)
Respondent.)

ORIGINAL

PUBLIC UTILITIES COMMISSION
SEPTEMBER 4, 1996
SAN FRANCISCO OFFICE
I.96-09-003

ORDER INSTITUTING INVESTIGATION

The California Public Utilities Commission (Commission) regulates intrastate airport passenger van shuttle operations pursuant to the California Constitution, Article XII, by Public Utilities Code Section 1031 et seq., and General Order (G.O.) 158-A. These statutes and regulations require carriers, among other things to serve the public convenience and necessity and to maintain adequate proof of liability and workers' compensation insurance coverage. The regulations further require that operators obey the provisions of the California Vehicle Code, participate in the Department of Motor Vehicles (DMV) "Pull Notice Program" and comply with airport rules and regulations.

The Safety and Enforcement Division's staff (staff) advises us, that it initiated an investigation of Lev Gamer, doing business as (dba) Jet Shuttle (Jet). Lev Gamer was granted authority by the Commission to conduct airport shuttle service as a Passenger Stage Corporation Carrier (PSC) in Decision 93-09-031, dated September 1, 1993. Jet currently operates three vans and provides on-call, door-to-door, passenger stage service between points in Los Angeles County, on the one hand, and the Los Angeles International and Burbank Airports, on the other hand.

Staff alleges that Jet conducted passenger carrier operations without public liability insurance coverage, failed to

fully participate in the DMV "Pull Notice Program", failed to possess workers' compensation insurance coverage and failed to maintain carrier records as required by General Order 158A. Staff's allegations are set out below.

INVESTIGATION

Failure to Participate in the DMV Pull Notice Program

Pursuant to Part 5.02 of General Order 158-A and Vehicle Code Section 1808.1, all Passenger Stage Corporations are required to enroll in the DMV Pull Notice Program. This important safety program helps to ensure that only safe and qualified drivers provide passenger carrier operations. Staff's investigation revealed that Jet initially enrolled in the DMV Pull Notice Program not until March 6, 1996, more than two years after it was certificated to provide passenger carrier operations. Current DMV records show that the owner and three of Jet's five present drivers were not enrolled into the Pull Notice Program until March 29, 1996. The remaining two current drivers were enrolled in the Pull Notice Program on June 20, 1996.

Operations without insurance

Pursuant to Section 1041 of the Public Utilities Code and General Order 101-E, Part 9, it is unlawful for a passenger stage carrier to conduct for-hire passenger services without possessing a valid certificate from the Commission and the required public liability insurance as required in PU Code Section 1040. According to Staff's license records, Jet's operating authority was suspended from March 7, 1996 through March 18, 1996, for failure to maintain proof of public liability insurance on file with the Commission, and apparently the carrier had no coverage during this period. Staff's investigation revealed that Jet continued to conduct passenger carrier operations despite the Suspension Order.

Operations without Workers' Compensation Insurance Coverage

Pursuant to Section 460.7 of the Public Utilities Code, all passenger stage carriers are required to maintain evidence of workers' compensation insurance coverage on file with the Commission. Staff's investigation revealed that Jet operated with at least six of employee drivers since July 1, 1995. Staff's license records show that Jet never filed proof of workers' compensation insurance coverage with the Commission until April 26, 1996.

DISCUSSION

After the issuance of a certificate of public convenience and necessity, the Commission exercises continuing oversight of the carrier's fitness to operate. Public Utilities Code Section 1033.5 (a) authorizes the Commission at any time for good cause to suspend a certificate of public convenience and necessity or revoke the certificate upon notice to the holder and opportunity to be heard. Public utilities Code Section 1033 gives the Commission the authority in its regulatory jurisdiction to prescribe rules for the performance of any passenger stage carrier.

In App. of Walter Hoffman (1976) 80 Cal P.U.C. 119 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."

The Department of Motor Vehicles' Pull Notice Program tracks and monitors the driver license status of an employee driver and reports to the employer if the employee's driving privilege has been suspended, revoked, or otherwise restricted by the DMV. Under this program, an employer who continues the use of an employee whose driver's license has been suspended is guilty of a misdemeanor and subject to fines and/or imprisonment. This important safety program is vital to ensure that only safe and qualified drivers provide passenger service. Staff alleges that Jet delayed enrollment for over two years and did not properly enroll all of its drivers in the DMV Pull Notice Program until June 20, 1996.

We expect at a minimum that passenger stage carriers will monitor the performance of their drivers. We have directed staff to inform us of any unsafe carrier operations so that we can take immediate action when necessary to preserve public safety and ensure that a carrier is sanctioned for violations and that there is good likelihood that the particular carrier will comply in the future.

O R D E R

IT IS ORDERED that:

1. An investigation on the commission's own motion is instituted into the operations and practices of Lev Gamer, dba Jet Shuttle, respondent.
2. There is substantial evidence that the respondent, Lev Gamer, may have:
 - a. Violated General Order 158-A, Part 5.02 and Section 1808.1 of the Vehicle Code, by failing to properly enroll and list all drivers in the DMV "Pull Notice Program";
 - b. Violated Section 460.7 of the Public Utilities Code by operating with employee drivers without first having evidence of workers' compensation insurance coverage on file with the Commission;

c. Violated Sections 1031 and General Order 101-E, Part 9, by operating during a period of suspension for failure to maintain on file evidence of accident liability insurance protection as required by Section 1040 of the Public Utilities Code;

d. Violated Part 4.01 of General Order 158-A by failing to maintain a current equipment list with the Commission.

e. Violated Part 6.02 of General Order 158-A by failing to provide maintenance records, payroll records and a policy of worker's compensation insurance for inspection by staff.

3. Lev Gamer is put on notice he may be fined to the full extent provided by the Public Utilities Code and that his operating authority may be revoked because of the chronic and serious chain of misconduct alleged and documented by staff's declaration.

4. A public hearing on this matter shall be held before an Administrative Law Judge at a location near LAX.

5. The Safety and Enforcement Division Staff, if it elects to do so, may present additional evidence beyond that described in this order.

6. The Executive Director is directed to cause a copy of this order to be personally served upon the respondent, Lev Gamer.

This order is effective today.

Dated September 4, 1996, in San Francisco, California.

DANIEL WM. FESSLER
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

President P. Gregory Conlon,
being necessarily absent, did not
participate.