

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION)
OF EXCALIBUR LIMOUSINE, LTD.,)
EVERGREEN, COLORADO 80439, FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO OPERATE AS A)
COMMON CARRIER BY MOTOR VEHICLE)
FOR HIRE.)

APPLICATION NO. 34027

IN THE MATTER OF THE APPLICATION)
OF EXCALIBUR LIMOUSINE, LTD.,)
33421 STAGECOACH BOULEVARD,)
EVERGREEN, COLORADO 80439, FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO OPERATE AS A)
COMMON CARRIER BY MOTOR VEHICLE)
FOR HIRE.)

APPLICATION NO. 34028

PALACE LIMOUSINE SERVICE, INC.)
2260 CALIFORNIA STREET)
DENVER, COLORADO,)

Complainant,)

vs.)

EXCALIBUR LIMOUSINE, LTD., AND)
EXCALIBUR SOCIETY, LTD.)
P. O. BOX 1438)
EVERGREEN, COLORADO,)

Respondent.)

CASE NO. 6072

RE: THE MOTOR VEHICLE OPERATIONS)
OF RESPONDENTS, EXCALIBUR SOCIETY,)
LTD., AND EXCALIBUR LIMOUSINE,)
LTD., 33421 STAGE COACH BOULEVARD,)
EVERGREEN, COLORADO.)

CASE NO. 6108

INTERIM ORDER OF
EXAMINER THOMAS F. DIXON

May 28, 1982

STATEMENT

On May 3, 1982, Excalibur Society, Ltd., and Excalibur Limousine, Ltd., filed motions to dismiss Cases No. 6072 and 6108. These motions generally alleged that Excalibur Society, Ltd., had discontinued providing limousine services to its club members on or about March 23, 1982, and had returned the limousines it was renting to JohnMac Corporation, had entered into a lease arrangement with American Limousine, Inc., which lease arrangement had been filed with this Commission and approved by this Commission upon filing. It was further alleged that Excalibur Society, Ltd., had provided no transportation services and had no intention of providing such services in the future. Finally, it was alleged that

the vehicles formerly used by Excalibur Society, Ltd., were being used by American Limousine, Inc., pursuant to the lease agreement.

Excalibur Limousine, Ltd., generally alleged in its motion to dismiss that it had provided no transportation services and had no control or ownership of any automobiles since the denial of its application for temporary authority. It generally incorporated the allegations contained in the motion to dismiss filed on behalf of Excalibur Society, Ltd., which were previously discussed. It further expressly denied that Excalibur Limousine, Ltd., was accountable for the past actions of Excalibur Society, Ltd.

No responsive pleadings were filed to these motions to dismiss.

DISCUSSION

Based on the allegations set forth in the "Statement," Excalibur Society, Ltd., and Excalibur Limousine, Ltd., allege that the questions presented in the pertinent cases are moot. Whether Excalibur Society, Ltd., or Excalibur Limousine, Ltd., has operated as a motor carrier without authority from this Commission in violation of Public Utilities Law may have a bearing upon the fitness of Excalibur Limousine, Ltd., to receive the authority which it has requested in Application No. 34027 and Application No. 34028. Red Ball Motor Freight v. P.U.C., 185 Colo. 438, 525 P.2d. 439 (1974). Moreover, whether Excalibur Limousine, Ltd., is accountable for or responsible for the alleged actions of Excalibur Society, Ltd., is a question of fact which must be resolved by hearing. Accordingly, the motions to dismiss filed on May 3, 1982, by Excalibur Society, Ltd., and Excalibur Limousine, Ltd., should be denied.

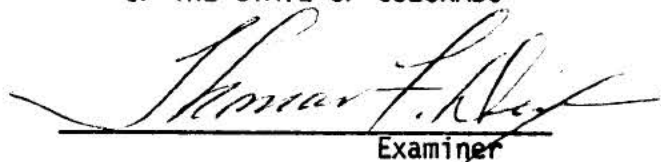
An appropriate Order will be entered.

ORDER

THE EXAMINER ORDERS THAT:

1. The motions to dismiss filed on behalf of Excalibur Limousine, Ltd., and Excalibur Society, Ltd., on May 3, 1982, are hereby denied.
2. This Order shall be effective forthwith.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Examiner

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