

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA TRANSIT CO., a corporation,

Complainant,

vs.

Case No. 2178

M. L. SCOTT and D. SCOTT, doing business
under the name of BIG THREE EMPLOYMENT
OFFICE, and A. C. SADLER,

Defendants.

Earl A. Bagby and L.J. Smallpage, for Complainant,

Thelen and Marrin, by Paul Marrin, for Defendants.

BY THE COMMISSION -

O P I N I O N

California Transit Co., a corporation, engaged in the operation of automobile stage lines as a common carrier, for compensation, herein complains of M. L. Scott, D. Scott, M.L. Scott and D. Scott, doing business under the fictitious name of Big Three Employment Office, and A. C. Sadler, alleging

(1) That defendants, and each of them, are engaged in the business of transporting passengers for compensation as common carriers thereof, and between fixed termini, and over regular routes, within the State of California and over the public highways thereof, without first having obtained from the Railroad Commission a certificate declaring that public convenience and necessity require such operation, or any other certificate, order or permit so to do.

(2) That neither of said defendants nor any of their predecessors in interest, were actually operating in good faith, or at all, in the transportation of passengers over the public highways of this state between fixed termini or over regular routes, or at all, prior to or during the year 1917 and that all the operation herein complained of is contrary to and in violation of the provisions of Chapter 215, Statutes of 1917, and effective amendments thereto.

(3) That the regular routes and fixed termini over which said defendants have been and are transporting passengers for compensation are between Stockton and Merced Falls, via French Camp, Escalon, Oakdale and Waterford; between Stockton and Fresno; via Main State Highway; and between Stockton and all points in the State of California for which passengers can be secured.

(4) That defendants and each of them, in carrying passengers as hereinabove alleged, also carry passengers to and from points intermediate to the termini hereinabove mentioned.

(5) That defendants and each of them in the operation hereinabove alleged, are operating jointly, each with the other, and with full knowledge and in defiance of the statutory law.

(6) That complainant is lawfully operating in the transportation of persons between Stockton and Manteca via French Camp and to all points intermediate thereto and to many other points in the State of California; and that the alleged unlawful operation of defendants is doing great and irreparable injury to the business of complainant, and is detrimental to the public service offered and furnished by said complainant.

Complainant prays for an order requiring defendants and each of them, to cease all transportation of passengers for compensation and from operating either as a common carrier of passengers or as a carrier of passengers between fixed termini or over regular routes within the State of California, and in particular between the termini or over the routes hereinbefore specified; for the enforcement of said order; and for such other and further relief as to the Commission may appear meet and proper in the premises.

Defendants duly filed their answer to the complaint, said answer being a general denial of the material allegations contained in the complaint.

A public hearing on this complaint was conducted by Examiner Handford at Stockton, evidence was received and the matter was duly submitted.

M. L. Scott testified that he resided in Stockton and with D. Scott conducted an employment agency maintaining offices in Stockton and Sacramento under the fictitious name of Big Three Employment

Agency; that defendant A. C. Sadler was an employee; and that in the conduct of his business applicants for employment were transported to the location of the employment by the cars of witness, compensation being received from the company for whom the employee was secured. In the transportation incidental to the business of witness between Stockton and Merced Falls, no regular route was followed, there being a variety of routes and the one meeting the immediate convenience of witness at a particular time being the one selected for travel. The witness stated that no transportation had been furnished to anyone unless employment had been secured for them through defendants' labor agency; that no transportation service had been furnished to Standard or Colunne since the granting of an injunction by the Superior Court of San Joaquin County, although trips were being made between Stockton and Merced Falls and Central Camp, not upon any regular schedule but as were occasioned by labor movement as employed through his labor agency.

A. C. Sadler testified that he was an employee of M.L. Scott and had been for four months, the nature of his employment being as a driver; and that four cars, each of 8 passenger capacity, were owned by Scott and used in the transportation of laborers who had secured their work through the employment agency. Witness had transported laborers and others who had secured employment through the agency from Stockton to the points of employment at Sugar Pine, at Merced Falls, and at Central Camp. But two trips to Sugar Pine had been made during the preceding four months, although trips to Merced Falls were made frequently averaging from four to six times per week. On return trips some passengers were hauled from Merced Falls into Stockton although no regular amount was collected, payment varying from fifty cents to three dollars having been made.

After full consideration of the record herein we hereby conclude and find as a fact that the operation of automobiles in the carriage of passengers for compensation between Stockton and Merced Falls and intermediate points by defendants M.L.Scott, D. Scott and M.L.Scott and D. Scott doing business as Scott Bros., or Big Three Employment Agency is in violation of the provisions of Chapter 215, Statutes of 1917, and effective amendments thereto, in that such operation has been conducted between fixed termini, for compensation, and without authority therefor having been obtained from this Commission by a certificate of public convenience and necessity as required by the aforesaid statutory enactment.

It appearing from the record that A. C. Sadler, defendant herein, was not a participant in the operation herein found to be in violation of the statute other than as an employee of the other defendants herein, the complaint as to such defendant will be dismissed.

O R D E R

A public hearing having been held on the above entitled complaint, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion and finding of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendants M.L. Scott, D. Scott, M.L. Scott and D. Scott doing business as Scott Bros., or as Big Three Labor Agency, immediately cease the operation of auto stages in the carriage of passengers for compensation between the fixed termini of Stockton and Merced Falls and/or points intermediate between said termini, and not resume such operation unless and until a certificate of public convenience and necessity will have been granted by this Commission to said defendants in accordance with the provisions of the statutory law as set forth in

Chapter 213, Statutes of 1917, and effective amendments there-
to, and

IT IS HEREBY FURTHER ORDERED that the Secretary of
this Commission be and he hereby is directed to forward, by
registered mail, a copy of this order to the district attorneys
of the Counties of San Joaquin, Stanislaus, Merced, Mariposa
and Tuolumne, and

IT IS HEREBY FURTHER ORDERED that this complaint insofar
as the same refers to defendant, A. C. Sadler, be and the
same hereby is dismissed.

Dated at San Francisco, California, this 5th day of
August, 1927.

E. J. Gammert
Albany
Leon Whitell
Thos. S. Kautz
COMMISSIONERS.