

Decision No. 19097

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

GOLDEN STATE AUTO TOUR CORPORATION,  
TANNER MOTOR TOURS, and  
GRAY LINE MOTOR TOURS, INC.,

Complainants,

vs.

C. C. C. TATUM,  
STANDARD AUTO TOURS, and  
D. G. HENDERSON,

Defendants.

Case No. 2417.

Richard T. Eddy, for Complainants.

CARR, Commissioner:

O P I N I O N

This is a complaint by various operators of regularly running sightseeing busses from Los Angeles to San Diego and Tia Juana and return against C. C. C. Tatum, Standard Auto Tours and D. G. Henderson, in which it is alleged that the defendants are operating sightseeing tours over this route without having a certificate therefor or being otherwise authorized to operate as common carriers.

Defendant Henderson, in due time, filed an answer (which he did not serve on the complainants) in which he sets out that he is the owner of Standard Auto Tours and that for a period of more than three consecutive months during 1926 he operated sightseeing trips from Los Angeles to San Diego and Tia Juana and return. The answer proceeds to allege that he filed tariffs with the Commission about the middle of August and that his co-defendant Tatum is not interested in Standard Auto Tours but is a real estate operator engaged in real estate operation on Mission Bay, near San Diego,

and that Henderson honored tickets sold by Tatum to prospective purchasers of real estate, the said tickets being sold at the regular tariff rates.

There is in the file of this case a letter from Frank P. Doherty, Attorney, in which he states Mr. Tatum has discontinued the operation complained of and that Mr. Tatum will not appear at the proceeding.

Notice of the time and place of hearing was duly given to all of the named defendants but none appeared.

At the hearing complainants adduced a large amount of testimony which established very definitely that in 1925 the defendant Henderson did for several months in that year operate the Standard Auto Tours in connection with a real estate operation of one Lawrence at Coronado, and conducted sightseeing excursions from Los Angeles to San Diego and Tia Juana and return, but that during the year 1926 no sightseeing operations were carried on by Henderson over this route for three consecutive months, or at all, and that in the early summer of the present year Henderson, with his Standard Auto Tours, commenced running sightseeing busses from Los Angeles to San Diego and Tia Juana and return on behalf of C. C. C. Tatum and in connection with the latter's real estate operations at Coronado. At or shortly after the date on which the complaint herein was filed the defendants discontinued these operations.

The defendants had no operative right to conduct a sightseeing business over the route in question except as they came within the provisions of Section 50-1/4 of the Public Utilities Act, by being engaged on January 1, 1927 in operating over this route or by having so operated for three consecutive months during 1926. The evidence adduced clearly shows that they do not come within this provision of the statute and that they have no right to operate over the route without securing a certificate of public convenience

and necessity, which they have never secured.

I recommend the following form of order:

O R D E R

This complaint having been duly set for hearing, evidence having been presented and the Commission having considered the evidence and basing its opinion upon the facts in the record and found in the foregoing opinion,

IT IS HEREBY ORDERED that the defendants, and each of them, be and they are hereby ordered and required to desist from operating, as common carriers, passenger stages over the public highways from Los Angeles to San Diego and Tia Juana and return, without first securing a certificate of public convenience and necessity therefor.

IT IS HEREBY FURTHER ORDERED that Local Passenger Tariff, C.R.C. No. 2, issued August 25, 1927, and effective August 29, 1927, by The Standard Auto Tours, D. G. Henderson, owner, be and the same is hereby cancelled.

The foregoing opinion and order are hereby adopted as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 2<sup>nd</sup> day  
*December*  
of ~~November~~, 1927.

*Edmund O. ...*  
*W. Seamy*  
*Leon Whitell*  
*Thos. J. ...*  
*M. J. ...*  
Commissioners.