

Decision No. 25728.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

PACIFIC GREYHOUND LINES, INC.,)
a corporation, (

Complainant)

vs. (

Case No. 3329. (

DRU JOENSON, GROVER C. JACOBSEN,)
doing business as the Golden Eagle)
Lines, J. N. ANDERSON and JAMES)
CHRISTENSON, doing business as the ()
Night Hawk Stages and First to)
Tenth Does)

Defendants. (

ORIGINAL

Orla St.Clair and Fred Wallace,
for the Complainant.
George F. Wasson for Grover C. Jacobsen and
Eagle Lines, and for Dru Johnson, Defendants.
E. T. Lucey for The Atchison, Topeka and Santa Fe
Railway Company, Interested Party.
T. F. Fitzgerald for Southern Pacific Company,
Interested Party.
A. S. Groocox for Board of Public Utilities and
Transportation of the City of Los
Angeles, Interested Party.

BY THE COMMISSION:

O P I N I O N

Pacific Greyhound Lines, Inc., a corporation has filed a complaint against Dru Johnson, Grover C. Jacobsen, doing business as the Golden Eagle Lines., J. N. Anderson and James Christensen doing business as the Night Hawk Stages and First to Tenth Does and allege that said defendants, and each of them, have violated and are violating the provisions of Chapter 638, California Statutes of 1931, said statute referring to licenses to be granted to Motor Carrier Transportation Agents.

Dru Johnson and Grover C. Jacobsen, doing business as Golden Eagle Lines, defendants duly filed their answers to the complaint, said answers denying the material allegations of the complaint.

A public hearing on this complaint was conducted by

Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

The record shows that on September 9, 1932, a passenger purchased from defendant, Dru Johnson, a ticket No.527, on the line of the Night Hawk Stages from San Diego to Phoenix, Arizona, for the sum of \$6.00, and that said passenger was transported from San Diego to Phoenix by the Night Hawk Stages in a Lincoln limousine car bearing California License No. P.C. L-4114. Four other passengers were carried on the car on the same trip. At the same time a Cadillac automobile bearing California License No. P.C.K-3335 left the ticket office of Dru Johnson in San Diego for Phoenix, Arizona, carrying seven passengers, and the two cars were together on the trip to Phoenix.

The record shows that checks were made from September 12th to 30th, 1932, of other cars of the Night Hawk Stages leaving the office of defendant Dru Johnson in San Diego for Arizona and that tickets were collected by drivers from passengers on such automobiles.

Defendant Dru Johnson contends that if any tickets were sold by him for passage on the Night Hawk Stages it was because he had received information that the owners of the Night Hawk Stages had applied to this Commission for a Motor Carrier Transportation License in accordance with the provisions of Chapter 638, Statutes of 1931 and that as such application had been filed, he was permitted to act as agent and sell tickets for passengers over such line. No application for a Motor Carrier Transportation Agent's License has ever been made by the Night Hawk Stages and the information claimed to have been received by defendant Johnson is incorrect and gave him no authority to sell tickets good over the line of the Night Hawk Stages.

As to defendant, Grover C. Jacobsen, operating as the Golden Eagle Lines, the record shows that Jacobsen was granted a Motor Carrier Transportation Agent's License and that the office of defendant, Dru Johnson, in San Diego, was included as a branch office for the sale of Golden Eagle Line tickets. This license did not permit the sale of other stage line tickets but only such as were sold for the Golden Eagle Line. The record is clear that defendant Grover C. Jacobsen had no information that by the unauthorized sale of NightHawk Stages' tickets the provisions of Chapter 638, Statutes of 1931, were being violated and there appears no evidence that defendant Jacobsen received any consideration or amount by such unauthorized sale. Counsel for defendant Jacobsen stated that it is not Jacobsen's intention to in any manner violate the statutes of this state or any regulation or instruction of this Commission and stipulated that he will eliminate from his organization any employee that violates any such law or Railroad Commission instruction or regulation. It would appear that this complaint insofar as it refers to defendant Grover C. Jacobsen, should be dismissed.

From the record herein we are of the opinion and hereby find as a fact that defendant Dru Johnson has violated the provisions of Chapter 638, California Statutes of 1931, and has sold tickets over the line of the Night Hawk Stages without having been licensed so to do and a cease and desist order will be issued.

An order of this Commission finding an operation to be unlawful and directing it to be discontinued is in effect not unlike an injunction. A violation of such order constitutes a contempt of the Commission. The California Constitution and the

Public Utilities Act vest the Commission with power and authority to punish for contempt in the same manner and to the same extent as courts of record. In the event a party is adjudged guilty of contempt, a fine may be imposed in the amount of \$500.00, or he may be imprisoned for five (5) days, or both. Motor Freight Terminal Co. vs. Bray, 57 C.R.C.224; Bell & Hayes, 57 C.R.C.487; Wermuth vs. Stamper 56 C.R.C.458; Pioneer Express Co. vs. Keller 33 C.R.C.571.

It should also be noted that under Section 79 of the Public Utilities Act, a person who violates an order of this Commission or who procures, aids or abets any utility in its violation of the act, or in its failure to comply with any order of the Commission, is guilty of a misdemeanor and is punishable by a fine not exceeding \$1,000.00, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

Section 15 of the Motor Carrier Transportation Agent Act, (Statutes 1931, Chapter 638) provides that any person, firm or corporation acting as an agent without a license, shall, on conviction thereof, if a person, be punished by a fine not exceeding \$1,000.00, or by imprisonment in the county jail, or state prison, for a term not to exceed one year, or by both such fine and imprisonment; or if a corporation, may be punished by a fine of not to exceed \$2,500.00.

O R D E R

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

IT IS HEREBY ORDERED that Dru Johnson shall cease and desist directly or indirectly or by any subterfuge or device

from operation in San Diego as a Motor Carrier Transportation Agent in the sale of tickets for the Night Hawk Stages, and shall not resume such operation unless and until a license for such operation is granted by this Commission after proper application in accordance with the provisions of Chapter 638, Statutes of 1931.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon Dru Johnson, that he direct that a certified copy thereof be mailed to the District Attorney of San Diego County,

IT IS HEREBY FURTHER ORDERED that this complaint, in so far as it refers to defendants Grover C. Jacobsen, doing business as the Golden Eagle Lines, J. N. Anderson and James Christensen doing business as the Night Hawk Stages and First Doe to Tenth Doe, inclusive, be and the same hereby is dismissed.

The effective date of this order shall be twenty (20) days after the date of service upon defendant.

Dated at San Francisco, California, this ^{7th} 17 day of March, 1933.

C. Cleary
Leon Whitely
M. A. C.
M. B. Harris
M. B. Harris
Commissioners.