

Decision No. 22437

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

PACIFIC GREYHOUND LINES, INC.,  
a corporation,

Complainant,

vs.

UNITED STATES TOURING ASSOCIATION,  
a benevolent trust estate, JAMES  
J. KREUTZ, JOHN J. DRISCOLL, JOHN  
DOE BETTS, LUCIEN McDANIEL, and  
FIRST TO TWENTIETH DOES,

Defendants.

Case No. 3618

H. C. Lucas and Orla St. Clair for Complainant

W. Frank Shelley for all defendants

Robert Brennan and Leo E. Sievert for The  
Atchison, Topeka & Santa Fe Railway Co.,  
interested party in support of complainant.

BY THE COMMISSION:

OPINION

The complaint herein alleges that United States Touring Association; James J. Kreutz, John J. Driscoll, and John E. Betts, (1) as trustees of United States Touring Association; and Lucien McDaniel, and each of them, are acting as motor carrier transportation agents without first obtaining licenses therefor,

(1) At the hearing John E. Betts was substituted for John Doe Betts as a party defendant. (Tr., p. 15.)

and in violation of Statutes 1931, chapter 638. (2) It also alleges that each of the defendants is operating as a common carrier "passenger stage corporation" in violation of section 50½ of the Public Utilities Act, without certificates of public convenience and necessity, between (1) San Francisco and Los Angeles via both the Coast and Valley Routes, (2) between Los Angeles and San Diego, (3) between San Francisco, Oakland, Los Angeles, Long Beach, and San Diego and all points in California "for which passengers can be secured." An order to cease and desist is sought.

Public hearing was had before Examiner Handford at Los Angeles on August 23, 1933 and the matter submitted on briefs.

W. Frank Shelley entered a general appearance for all (3) defendants and at the opening of the hearing filed an answer. The answer admits that John H. Betts is a trustee of the Association (Par. VII); alleges that there are in excess of two thousand members of the Association (Par. VI); alleges that United States Touring Association is organized "under the Constitution, Federal Laws and Immunities of the United States, for the uses and purposes as set forth in Trust Estate instrument", which instrument

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(2) Complaint was filed on July 3, 1933. Effective August 21, 1933, Statutes 1931, chapter 638 was repealed by Statutes 1933, chapter 390, the latter being the new Motor Carrier Transportation Agent Act. At the hearing section 2(c) of the prayer of the complaint was amended to request an order requiring each of the defendants to cease and desist from "Engaging in the business, or acting in the capacity of a motor carrier transportation agent, as defined by the statutes of the State of California, without first obtaining a license therefor." (Tr., pp. 166-167.)

(3) Order to Satisfy or Answer the complaint within ten (10) days was issued by the Commission, in accordance with its Rules of Procedure, on July 13, 1933.

is a public record in a certain proceeding in the United States District Court; <sup>(4)</sup> and denies the allegations of certain paragraphs of the complaint. The prayer of the answer is for dismissal and asks that the Commission investigate the complainant and order complainant to cease and desist from alleging that United States Touring Association is operating as a passenger stage corporation or acting as motor carrier transportation agent "when they have not done such in fact", and order complainant to desist "from further presentation of the illegal action herein, as complainants illegal action has no jurisdiction or standing in any court \* \* \*", etc.

After reading the answer, and before the taking of any testimony, counsel for defendants moved to dismiss the proceeding. As a proceeding may be dismissed only by the Commission, the Examiner hearing the matter properly denied the motion and proceeded with the taking of testimony. The motion to dismiss is hereby denied. Thereupon counsel for defendants tendered for filing a document entitled "Notice of Intention to Appeal", which document stated that defendants intended to "appeal" to the United States District Court. Counsel for defendants also tendered for filing a second document entitled "Points and Authorities on Notice of Appeal to the Federal Court." <sup>(5)</sup>

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(4) The proceeding referred to is Rice et al., Trustees of United States Touring Association v. Railroad Commission et al., No. Y-34-J, U.S.D.C., So. Dist. of Calif., Cen. Div. Third Amended Bill of Complaint was filed on July 26, 1933. On August 1, 1933 temporary restraining order was discharged and motion for interlocutory injunction denied.

(5) This document bears the following title: "Before the Railroad Commission of California, The Railroad Commission et al. Plaintiff, vs U. S. Touring Assn, et al. Defendants."

The evidence may be summarized as follows:

On June 17, 1933 Witness M. O. Rogers went to the Keystone Hotel, 54 Fourth Street, San Francisco. There was one sign in the window of the hotel and another on the desk regarding "de luxe sedan service to Los Angeles" for \$5.00. A United States Touring Association sign was on the desk. Witness bought transportation from San Francisco to Ventura from one Lawrence Allen "paid him \$5.00, and signed a United States Touring Association slip." (Tr., p. 34.) Allen placed this slip "on the desk in front of me and asked me to sign it, and I asked him what it was." (Tr., p. 34.) Allen explained that it was for membership in the Association, that the membership would cost \$5.00, and that the trip would be covered by the \$5.00. (6)

(6) The "slip" referred to by the witness (Exhibit 1) reads as follows:

"Signature of Contributing Subscribing Member M. O. Rogers, 760 Jones St.

GOOD FOR ONE MONTH FROM DATE PUNCHED

Cash Receipt for Monthly Contribution - Associate Members

⋮  
⋮ ASSOCIATE MEMBER'S RECEIPT ⋮  
⋮

UNITED STATES TOURING ASSOCIATION

A Benevolent Trust Estate - Organized under the Constitution of the United States. Liability Limited to Estate. No. 729

NOT TRANSFERABLE NOT GOOD FOR TRANSPORTATION  
This receipt when punched on the day and date issued, one date only to be punched out, is a receipt that your contribution is made for one month from date punched. Members must present this receipt to offices and drivers of automobiles for the purpose of identification as a member.

THIS RECEIPT VOID IF MORE THAN ONE DATE PUNCHED

1933 1934 JAN. FEB. MAR. APR. MAY JUNE JULY AUG. SEPT. OCT. NOV. DEC. 1935

1936

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24  
25 26 27 28 29 30 31

NOTICE-This Receipt to be Used for Travel Members  
826 West 8th Street, Los Angeles

PHONE  
Trinity  
5454 "

Form B-1

On January 5, 1933 Witness Rogers, accompanied by Officer Cahill of the San Francisco Police Department, went to the Oakwood Hotel, 44 Fifth Street, San Francisco, and there purchased from a woman named Gayle Mann transportation to Los Angeles, the money being paid to the driver of the car in the presence of Gayle Mann by Officer Cahill. The witness signed a form of receipt similar to Exhibit 1. <sup>(7)</sup> Eight passengers, including the witness, entered an automobile, the driver of which was arrested after proceeding some eight blocks.

Witness J. M. Thomas, on March 19, 1933, at the King Edward Hotel, Los Angeles, purchased transportation to San Francisco from W. J. Victor for \$5.00 and received a receipt similar to Exhibit 1. <sup>(8)</sup> Witness, with five other men, was transported to San Francisco. The driver was one Denning. On April 2, 1933 Thomas again purchased transportation to San Francisco from Victor, paying \$5.00 and receiving an Association receipt. Six people were carried to San Francisco. The driver was Edgar Smith.

On April 20, 1933 Witness Thomas, at the Federal Hotel, San Francisco, purchased transportation to Santa Barbara for \$5.00 from Ethel Hamm, and received an association receipt. The

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(7) "Q. Was anything said to you by Mrs. Mann about joining an association? A. No.

Q. You were requested to sign this slip? A. She just put the slip in front of us and asked us to sign it, and I supposed that it was a sort of a ticket or something of that kind. I did not even read it at that time." (Tr., p. 31.)

(8) "Q. Was anything said by you at the time you negotiated with Mr. Victor about joining the United States Touring Association? A. There was not." (Tr., p. 40.)

driver, Clarence Womack, was arrested at Gilroy. Besides the witness, six additional passengers from San Francisco were in the car. A sign in the Federal Hotel read "Sedan service twice daily to Los Angeles, \$5.00, United States Touring Association."

On May 25, 1933 Witness Thomas, at the Oakwood Hotel, 44 Fifth Street, San Francisco, purchased transportation to Santa Monica from Edwinna Gray (also represented to the witness as Mrs. Nichols), paid \$5.00, and received an Association receipt. The witness, together with five other people, was transported to Los Angeles. Exhibits 2 and 3 are cards of the United States Touring Association presented to the witness. (9)

(9) Exhibit 2 reads as follows:

Phone  
Trinity 5454

Camp No. 1

Camp Office No. 2  
190 O'Farrell St.  
EXbrook 3951  
San Francisco, Calif.

UNITED STATES TOURING ASSN.

A Benevolent Trust Estate  
FREE TRAVEL INFORMATION  
CORDOVA HOTEL - 826 W. 8th St. L.A.  
Sedans to all points of U.S.A., San Francisco twice daily

Members Ride with Members

J.J. KREUTZ, Secy. Presented by \_\_\_\_\_"

Exhibit 3 reads as follows:

Phone  
EXbrook 3951

Camp No. 2

Camp No. 1  
826 West 8th St. L.A.  
Phone TRinity 5454

UNITED STATES TOURING ASS'N

A Benevolent Trust Estate  
190 O'Farrell Street, at Powell  
San Francisco, Calif.

De Luxe Sedans to All Points in U.S.A.  
Join Our Touring Ass'n., Ride Economically As A Member

Members Ride with Members

L. T. McDaniel

\_\_\_\_\_ District Managers

C. D. Nichols"

Miss Marie Gehman, on May 8, 1933, at the travel bureau in the St. Marlow Hotel, San Francisco, purchased transportation to Los Angeles, paid \$5.00, and received an Association receipt. (Exhibit 4.) A sign, "United States Touring Association" was on the desk. The witness, together with four other passengers, was transported to the Cordova Hotel, Los Angeles, in an automobile bearing California license number C-K-8496.

A. C. Rich, on March 13, 1933, paid one Stelling on Howard Street, San Francisco, for transportation to Los Angeles. He was then taken by automobile, driven by Clarence Womack, to the St. Marlow Hotel, San Francisco, where Womack handed Rich an Association receipt to sign. The witness was then transported to the Cordova Hotel, Los Angeles. Shortly before arrival there, driver Womack handed a card to all passengers. This card (Exhibit 5) is the same as Exhibit 2 (see footnote 9) and is signed "C. Womack."

On March 15, 1933 (two days later) witness Rich, at the Cordova Hotel, Los Angeles, paid \$5.00 for transportation to San Francisco. (10) At the Cordova Hotel's sign read "Low bus fares to San Francisco, \$5.00, United States Touring Association."

Miss Ola May Moore, on April 27, 1933, on the mezzanine floor of the St. Marlow Hotel, 190 O'Farrell Street, San Francisco,

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(10) "Q. Did you receive any receipt or indicia of your payment?  
A. Someone suggested that I sign up again, and I said, 'Do you mean one of these?' And showed him a certificate that I had received in San Francisco. He said, 'Oh, you are already a member, it is not necessary.'

Q. You paid him the \$5.00? A. Yes.

Q. Were you transported from Los Angeles to San Francisco?  
A. Yes, sir." (Tr., p. 71.)

purchased transportation to Los Angeles for \$5.00 from a girl at the desk (a sign was on the desk reading "United States Touring Association"), and was given an Association receipt. (11)  
(Exhibit 6.) The witness and five or six other passengers were transported in a Packard automobile, driver Wagner, to the Cordova Hotel, Los Angeles.

On May 7, 1933 Miss Moore, at the Cordova Hotel, Los Angeles, purchased transportation to San Francisco from defendant J. J. Kreutz, was given an association receipt, and, with five (12) other people, was transported to San Francisco. The witness observed one of the other passengers purchasing transportation from Kreutz.

C. P. Belser, on July 20, 1933, at the Cardinal Hotel, Palo Alto, mailed a letter addressed to "U. S. Touring Ass'n., c/o Mr. C. D. Nichols, Dist. Mgr., Keystone Hotel, San Francisco, Cal.", wherein he requested transportation to Los Angeles for

(11) "Q. Was there anything said to you about joining an association, Miss Moore? A. No, sir, there was not.

Q. Were you asked if you were already a member of the association? A. No, sir." (Tr., p. 81.)

(12) "Q. Did you have any conversation with Mr. Kreutz at that time? A. Well, I just told him I wanted to go to San Francisco, so he had me sign a ticket and I paid \$5.00, and he told me what time the car would leave.

Q. Did he say anything about joining the United States Touring Association? A. No, sir.

Q. Did he ask you if you had previously been a member of the United States Touring Association? A. No, sir.

Q. Were you transported from Los Angeles to San Francisco? A. Yes, sir." (Tr., p. 87.)



himself and wife on July 24, 1933, and enclosed his check for \$10.00. This letter was answered under date of July 21, 1933, by C. D. Nichols, who advised that a car would call between 6 and 6:30 p.m. on July 24. At 7:15 p.m. on July 24, 1933 a Cadillac sedan (PC F 4591), driver Harvey Pitts, called for witness at the Cardinal Hotel. Pitts returned to witness the check sent to Nichols at San Francisco, explained that the check could not be cashed in San Francisco because the head office was not located there, and stated that if witness still desired to go to Los Angeles he could pay the fare to Pitts. Witness paid \$10.00 to Pitts as fare for himself and wife. No receipt was given for this payment. Witness and his wife were transported as far as Gilroy, at which point the driver was arrested. There were five other passengers in the car.

Miss Lillian Burke, on July 5, 1933, accompanied by Inspector Powell of the Los Angeles Police Department, went to a transportation office at 638 South Beacon Street, San Pedro, where Inspector Powell purchased from a Mrs. McGlynn transportation for two to San Francisco for \$12.00, and where Miss Burke signed and received an Association receipt of the same form as Exhibit 4. Miss Burke and Inspector Powell were then transported to the Cordova Hotel in Los Angeles, where the driver, Kelley, was arrested.  
(13)

Inspector E. E. Powell accompanied Miss Burke on July 5, 1933, and also received a receipt similar to Exhibit 4. After arrival at the Cordova Hotel the witness arrested the driver and

(13) "Q. Were you informed at the time you signed this that you were joining an association? A. No.

Q. Were you asked if you were already a member of the association? A. No." (Tr., p. 111.)

Mrs. McGlynn. On another occasion the witness placed J. J. Kreutz under arrest at 802 South Figueroa Street, Los Angeles. At that time there was a sign in the window reading in part; "United States Touring Association \* \* \* our slogan, Members ride with Members, member cars to San Francisco twice daily." A second sign in the window read in part; "United States Touring Ass'n., for information apply at desk, Cordova Hotel, 826 West 8th Street. \* \* \*"

(14)

Another sign was hanging on the wall of the office. Witness Powell also identified certain stubs of receipt books and partially used receipt books as being those taken from the desk of J. J. Kreutz at the time of the latter's arrest.

J. P. Warren, on August 6, 1933, at 802 Figueroa Street, Los Angeles, purchased transportation to San Francisco from J. J. Kreutz, was issued an Association receipt (Exhibit 8), and

(15)

(14) This was also produced at the hearing and was described for the record as follows:

"\* \* \* a sheet of paper, about 1½ or 2 feet long, with the words across the top 'United States of America', and under that 'Camp No. \_\_\_ of the United States Touring Association, Benevolent Trust Estate', and beneath that, with spread wings -- it is what I assume is the shield of the United States. Beneath that are figures, with a sailor and soldier between them, and a scroll with the words 'E Pluribus Unum'. Beneath that is the insignia which looks like the insignia of the marine corps with the world on it, and beneath that the words 'Courtesy, safety and economy'." (Tr., pp. 117-118.)

(15) "Q. Did you have any negotiations with Mr. Kreutz regarding transportation? A. Yes sir.

Q. What were they? A. I asked Mr. Kreutz if the fare was still \$5.00 as it used to be, and he said it was and I said I would like to go to San Francisco, and I paid him \$5.00 and secured a receipt of membership, whatever it was." (Tr., p. 129.)

"Q. Anything said to you about joining the United States Touring Association? A. No, sir.

Q. Any questions asked you as to whether or not you were already a member? A. No, sir." (Tr., p. 130.)

was transported to San Francisco, with six other passengers, in a Lincoln sedan, driver Russell Eogan.

J. N. Beamish, on August 6, 1933 telephoned to the United States Touring Association in Los Angeles, was informed that a car left for San Francisco either in the morning or afternoon, and then went to the touring bureau and made arrangements to be picked up on the following day. On the afternoon of August 7, 1933 a car called for the witness, and he was taken to 802 South Figueroa Street. Mr. Kreutz, seated at the desk, handed witness a receipt book and told him to "sign here". Witness signed (Exhibit 9), asked the cost, paid Mr. Kreutz \$5.00, and was later transported to the Keystone Hotel, San Francisco, in a Lincoln automobile, (license P C E 6510, driver Woodcock.) A passenger who boarded the car at Los Angeles paid a cash fare to the driver just north of Santa Barbara.

On August 8, 1933 Mrs. B. A. White accompanied by Mr. Beamish, went to Hotel St. Merk, Oakland. A United States Touring Association sign was in the window of the hotel and a travel bureau is located in a small office to the right of the lobby. Mr. Beamish paid to a Miss McGill \$10.00 for transportation for two to Santa Barbara. Receipts similar to Exhibit 9 were given to Mrs. White and Mr. Beamish, who were transported in a car with other passengers as far as Gilroy, where the driver was arrested.

E. B. Nelson, on August 5, 1933, went to the travel bureau in the lobby of the Hotel Vernon, 11th and Franklin Streets, Oakland, purchased from a Mrs. Lane and a man called "Frank" transportation to Los Angeles for \$5.00, and received an Association receipt. (Exhibit 11.) The witness did not make the trip.

O. J. Burns, on April 2, 1933, accompanied Miss O. M.

Moore to the King Edward Hotel, Los Angeles, purchased from W. J. Victor transportation for two to San Francisco for \$10.00, and was transported to San Francisco.

M. O. Rogers, on August 5, 1933, at Hotel St. Mark, Oakland, purchased from a Mr. Gillis transportation for two to Los Angeles, paid \$10.00 to Gillis, and was given an Association receipt. (Exhibit 12.) This transportation was not used.

Exhibit 14 is a copy of the "Navy Record", published at Long Beach, issue of August 19, 1933, and containing an advertisement reading as follows:

" U. S. Touring Association  
Navy Personnel Accepted as Honorary Members  
San Francisco, 54 4th St., Phone Garfield 0761  
Oakland, Calif., 392 E. 12th St., Phone Templebar 6800  
A Benevolent Trust Estate  
Sedans To All Parts of U. S. A.  
802 S. Figueroa St., Los Angeles, Phone Vandyke 9323."

Exhibit 15 is a copy of the "Weekly Herald", published in the Park-Presidio District, San Francisco, issue of May 12, 1933, which contains the following advertisement:

" L O S A N G E L E S  
Twice Daily  
At Lowest Possible Cost  
We guarantee to save you money  
To All Points Daily  
United States Touring Ass'n  
190 O'Farrel St.  
Phone EXbrook 3951."

(16)

Exhibit 16 is a document of ten pages, from which it appears that James J. Kreutz is secretary of United States Touring Association.

None of the defendants possess a license to act as motor carrier transportation agents, nor have any of the defendants been granted a certificate of public convenience and necessity to operate as a passenger stage corporation. (Tr., p. 158.)

Those operating "United States Touring Association", in their advertising matter, in the "associate member's receipts" furnished to individuals purchasing transportation, and in the cards distributed to patrons, etc., represent that the Association is a "benevolent trust estate". In the receipts issued it is stated that the Association is "organized under the Constitution of the United States". Defendants James J. Kreutz, John J. Driscoll, and John H. Betts are "trustees" of the Association. James J. Kreutz is secretary, and is at the principal office in California, at the Cordova Hotel, Los Angeles. Branch offices for the sale of transportation are maintained in San Francisco and in Oakland. The record shows a holding out to the public to sell transportation by automobile between points in California. A cease and desist order should issue.

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(16) This document bears the following title:

"Amendment

A Benevolent Trust Estate

Contract and Agreement Embodying the following Stipulations and Covenants to Establish a Benevolent Trust Estate to be Administered by Natural Person Trustees in Joint Tenancy, Holding in Trust as to Distribution of Avails Acting Under Their Citizenship and Common Law Rights of Contract as Set Forth by and in the Constitution of the United States of America, Federal Laws and Immunities, Vouchsafed to all Persons, by and in the Constitution of the United States of America."

An order of this Commission finding an operation to be unlawful and directing that it be discontinued is in its effect not unlike an injunction issued by a court. A violation of such order constitutes a contempt. The California Constitution and 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, C. C. P. Sec. 1218, M. F. T. Co. v. Bray, 27 C.R.C. 224; re Ball & Hayes, 37 C.R.C. 407; Wermuth v. Stamper, 36 C.R.C. 458; Pioneer Express Co. v. Keller, 33 C.R.C. 571.

#### ORDER

It is hereby found that United States Touring Association, James J. Kreutz, John J. Driscoll, and John H. Betts, and their agents and representatives, are acting as motor carrier transportation agents as defined by section 2 of the Transportation Agent Act (Statutes 1933, chapter 390.)

Based upon the finding herein and the opinion,

IT IS HEREBY ORDERED that United States Touring Association, James H. Kreutz, John J. Driscoll, John H. Betts, as individuals and as "trustees" for said Association, their agents and representatives, shall cease and desist directly or indirectly or by any subterfuge or device whatever, from acting as such motor carrier transportation agents unless and until they, and each of them, shall have obtained from this Commission a license to act as such motor carrier transportation agent.

IT IS HEREBY FURTHER ORDERED that the Secretary of the Commission shall cause a certified copy of this decision to be served upon United States Touring Association, James J. Kreutz, John J. Driscoll, and John H. Betts; and cause certified copies to be mailed to the District Attorney of the City and County of San Francisco and to the Board of Public Utilities and Transportation of the City of Los Angeles.

This order shall become effective twenty (20) days after the date of service.

Dated at San Francisco, California, this 16<sup>th</sup> day of October 1933.

C. Deane  
Leon A. Dwyer  
M. J. ...  
M. B. ...  
...  
Commissioners