

Decision No. 26880

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Investigation
on the Commission's own motion into
the business and operation of HOWARD
H. BABIN as a Motor Carrier Trans-
portation Agent.

)
) Case No. 3741.
)

ORIGINAL

H. C. Lucas and Orla St. Clair, by Orla St. Clair,
for Pacific Greyhound Lines, Inc.,
Orla St. Clair for Motor Carriers Association,
Robt. Brennan and Wm. F. Brooks, by Wm. F. Brooks,
for The Atchison, Topeka & Santa Fe
Railway Company,
Howard H. Babin in propria Persona, Respondent.

BY THE COMMISSION:

O P I N I O N

This is an investigation, on the Commission's own motion, into the business and operation of Howard H. Babin as a Motor Carrier Transportation Agent.

Public hearings on this investigation were conducted by Examiner Handford at San Francisco, the matter was duly submitted and it is now ready for decision.

Miss Hazel Hull, an employe of the Better Business Bureau, testified that on November 3, 1933, she went to the St. Marlow Hotel in San Francisco. The witness interviewed respondent and was quoted a rate of five Dollars as the automobile fare San Francisco to Los Angeles. Witness observed two telephones installed at the travel bureau of the hotel.

Norman H. Robotham, employed as Inspector by the Railroad Commission, testified that he accompanied Miss Hull, the previous witness, on her visit to the St. Marlow Hotel,

San Francisco on November 3, 1933. This witness saw respondent negotiating with Miss Hull regarding transportation and also saw a book on respondent's desk containing entries of transportation sold. Witness also testified that he had seen respondent negotiating for transportation at the King Edward Hotel in Los Angeles, witness having been accompanied at that time by Miss Wilkinson of the Better Business Bureau of Los Angeles.

Mrs. Marion Forsee, an employe of the Motor Carriers Association, testified that on February 8, 1934, she arranged at the Golden State Hotel, San Francisco for automobile transportation, San Francisco to Los Angeles. Later in the day she was picked up at her residence in San Francisco and was transported to Los Angeles via Gilroy, Pacheco Pass, Fresno, Bakersfield and the Ridge Route, being delivered in Los Angeles at the Hotel Roslyn. Witness paid respondent \$5.00 as fare from San Francisco to Los Angeles and the car contained four other passengers. Respondent also went to Los Angeles on the same car. No license plate was on the car, there being a red tag displayed on the windshield.

The record in this proceeding is clear that E. H. Babin has acted as a Motor Carrier Transportation Agent and without a licence so to do as required by the provisions of Chapter 390, Statutes of 1933.

An order to cease and desist this unlawful operation should issue herein.

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 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. C.C.P. Sec. 1218; Motor Freight Terminal Company v. Bray, 37 C.R.C. 224; re Ball and Hayes, 37 C.R.C. 437; Wermuth v. Stamper, 36 C.R.C. 458; Pioneer Express Company v. Keller, 33 C.R.C. 571.

It should also be noted that a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$1000.00, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Likewise a patron or other person who abets or aids in the violation of an order of the Commission is guilty of a misdemeanor and is punishable in the same manner.

O R D E R

IT IS HEREBY FOUND that Howard E. Babin has acted as a Motor Carrier Transportation Agent and without a license so to do as is required by the provisions of Chapter 390, Statutes of 1933.

Based upon the finding herein and the opinion,

IT IS HEREBY ORDERED that Howard E. Babin shall cease and desist, directly or indirectly, or by any subterfuge or device from continuing such operation.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon Howard E. Babin, and that he cause certified copy thereof to be mailed to the District Attorney of the City and County of San Francisco.

The effective date of this order shall be twenty (20) days after the date of service upon respondent, Howard H. Babin.

Dated at San Francisco, California, this 24th day of March, 1934.

C. C. Leary
Leon Oudreau
W. J. Lee
M. B. Lewis
Arthur W. ...
Commissioners.