

Decision No. 26882

ORIGINAL

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) Case No. 3747.
M. F. TANNER as a Motor Carrier)
Transportation Agent.)

Alfred Stern for M. F. Tanner, Respondent.
H. C. Lucas and Orla St. Clair, by Orla St. Clair,
for Pacific Greyhound Lines.
Orla St. Clair for Motor Carriers Association.
Robert Brennan and Wm.F.Brooks, by Wm.F.Brooks,
for The Atchison, Topeka & Santa Fe
Railway Co.
Gerald J. O'Gara and Howard Day for Better Business
Bureau of San Francisco.

BY THE COMMISSION:

O P I N I O N

This is an investigation, upon the Commission's own motion,
into the business and operation of M. F. Tanner 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 is now ready for decision.

Miss Hazel Hull, an employee of the Better Business Bureau
of San Francisco, testified that on November 30, 1933, she went to
the Statler Hotel in San Francisco and was referred to the respon-
dent by the hotel clerk. She negotiated with respondent regarding
automobile transportation and was quoted a rate of \$5.00, San Fran-
cisco to Los Angeles. Mrs. A. Damon, manager of the Hotel Statler,
San Francisco, testified that she knew respondent and that he had
operated a travel bureau in the Statler Hotel. This witness identi-
fied a photostatic copy of telephone record (Exhibit No.1) and a
business card of the Hotel Statler advertising "Travel Service"
(Exhibit No.2).

Wm. Swarting, employed by the Motor Carriers Association, testified that on January 30, 1934, he was at the Statler Hotel, San Francisco, and there boarded an automobile for Los Angeles. Witness saw respondent at that time and just prior to the departure of the car witness paid respondent \$5.00 as fare, San Francisco to Los Angeles. Witness was transported to Los Angeles and was in a Lincoln Sedan carrying seven passengers, two of which were picked up in Oakland and one at Tracy.

M. F. Tanner, respondent herein, testified that he resided in San Francisco at the Statler Hotel and that he owned three automobiles registered in his name, two of which were now leased to lessees in San Francisco. Witness stated that at one time he had a travel desk in the Statler Hotel but that for about two months he has had no connection with the business of automobile transportation. Witness holds a 1934 license from the State Board of Equalization as a private automobile carrier and makes regular reports to such board of earnings covered by his car and upon which a tax is to be paid to the State of California.

We have fully considered the record in this proceeding and conclude therefrom that the respondent, M. F. Tanner, has acted as a Motor Carrier Transportation Agent and without a license so to do as required by Chapter 390, Statutes of 1933.

An order to cease and desist such operation should issue herein.

An order of this Commission finding that an operation is illegal 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. CCP Sec.1218;

Motor Freight Terminal Co. vs. Bray, 37 CRC 224; re Ball & Hayes, 37 CRC 407; Wermouth vs. Stamper, 36 CRC 458; Pioneer Express vs. Keller, 33 CRC 571.

It should also be noted that a violation of an order of the Commission constitutes 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 aids or abets 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 M. F. Tanner has operated 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 M. F. Tanner 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 M. F. Tanner, and that he cause a certified copy 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 from the date of service upon respondent, M. F. Tanner.

Dated at San Francisco, California, this 20th day
19th
of March, 1934.

W. C. Leary
Leon C. Leary
M. J. Leary
M. B. Leary
W. C. Leary
Commissioners.