

Decision No. 27945

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
FRANK LINE for a Motor Carrier Trans-) M.C.T.A. Application
portation Agent's License.) No. 19849

H. A. Encell, for Applicant.

Orla St. Clair, for Passenger Carriers Association,
Protestant.

Robert Brennan and W. F. Brooks, for The Atchison,
Topeka and Santa Fe Railway Company, Protestant.

BY THE COMMISSION -

O P I N I O N

Applicant seeks authority to sell tickets for use in interstate transportation of passengers by applicant's own vehicles. The application originally sought such authority for "chartered" vehicles in intrastate or interstate traffic but was amended at the hearing. The tickets are sold only for the use on vehicles owned by applicant and to be employed in journeys between San Francisco, California, and Tucson, Arizona, via Los Angeles, San Diego, El Centro, Yuma and Phoenix.

A public hearing herein was conducted by Examiner Williams at San Francisco.

Applicant operates five sedans of seven or eight passenger capacity. He expects to use this equipment wholly in interstate service. While the route follows an indirect course between termini, the San Diego World's Fair, opening May 29, 1935, will be a major traveler's attraction.

Applicant testified that he came to California from Texas in September, 1934, with passengers from Phoenix. At Los the car failed and applicant procured another to complete a journey to San Francisco. He was arrested near Mt. Eden by highway patrolmen for violating Sections 58 and 77c of the Motor Vehicle

Act (failure to possess driving license and plates). He pleaded guilty and was sentenced to five (5) days in jail, which he served, by the Justice court of Eden township, Alameda county. He testified he was ignorant of California requirements.

Subsequently, applicant began operating sedans between San Francisco and Los Angeles via Pacheco Pass and Bakersfield. The record of the State Board of Equalization shows that applicant paid revenue tax to the State on 22 trips between San Francisco and Los Angeles between November 1, 1934, and January 24, 1935. Testimony of Mrs. Dora Leplin, Sam Duga and Jerome Leaverinz, passengers on one of the vehicles which was wrecked near Gilroy, January 2, 1935, injuring all three, indicated that this service was typical of the "wild cat" services frequently brought before this Commission for discipline. His operations are now the subject of formal complaint (Case No. 4000) now pending before this Commission.

It is significant that he had picked up passengers at the Panama hotel and Hotel Mercer in Los Angeles and at other points before leaving for San Francisco at 7 p.m. The accident occurred at 5:30 a.m. the next morning. Anderson had driven the entire distance. He stated he had had three half-hour rests during the journey. Line testified that he received no compensation from

any passenger on this trip. It was stipulated that Anderson was an employee of applicant. Applicant's first punishment for failure to possess proper licenses might be excused as he had been in the state only two days. He probably was ignorant of the legal requirements. But he testified he had long operated in Texas as a passenger carrier. The lesson of Eden township conviction does not seem to have taught applicant anything except to meet the requirements of the tax law and to evade other legal requirements. He testified he had conducted no operation during the forty-five days preceding hearing.

Section 6 of the Motor Carrier Transportation Agent Act forbids the issuance of a license to an applicant if "the Railroad Commission shall determine that (1) the applicant is not a fit and proper person to receive the same," etc. The record discloses facts which prevent a finding that applicant is "a fit and proper" person to engage in selling transportation to the public in California. The application, therefore, will be denied.

O R D E R

Benjamin Franklin Line having made application for a motor carrier transportation agent's license, a public hearing having been held and the Commission being fully advised,

IT IS HEREBY FOUND AS A FACT that Benjamin Franklin Line is not a fit and proper person to be granted a motor carrier transportation agent's license, and

IT IS HEREBY ORDERED that his application therefor be and the same hereby is denied.

Dated at San Francisco, California, this 6th day of May, 1935.

John A. Wheeler
W. B. Harris
W. B. Harris
W. B. Harris
W. B. Harris
COMMISSIONERS.