

ORIGINAL

Decision No. 34702

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WM. H. JOHNSON, doing business as)
 JOHNSON'S AUTO TRAVEL BUREAU, for)
 a license authorizing him to engage)
 in the business, or act in the capac-) Application No. 24191
 ity of a motor carrier transportation)
 agent in the City of Los Angeles,)
 County of Los Angeles, State of Cal-)
 ifornia.)

F. W. TURCOTTE, for Applicant.

ORLA ST. CLAIR and ARTHUR H. CONNOLLY, JR.,
for Passenger Carriers, Inc., Protestant.

JAMES GUNN, for Board of Public Utilities &
Transportation of the City of Los Angeles,
Interested Party.

BY THE COMMISSION:

O P I N I O N

This is an application for a license to engage in business as a motor carrier transportation agent, as defined in the Motor Carrier Transportation Agent Act (Chapter 390, Statutes 1933, as amended). Public hearing was held at Los Angeles before Examiner McGettigan on July 2 and August 19, 1941.

Applicant proposes to do business as such an agent in the city of Los Angeles from an office located at 230 East Seventh Street. Here, so-called "casual motor car operators," consisting of persons leaving California on trips by automobile to other states, may register, and applicant, acting as an

intermediary, will book passengers for the return trip upon a financial arrangement agreed upon between the car owner and applicant at the time of registration. He will receive compensation for this service both from the car owners, who will pay a fee at the time car is registered, and from the passengers, who will pay a fee to applicant for placing them in contact with the car owners. The service is to be confined entirely to interstate transportation and applicant has requested a license so limited.

The business which applicant proposes to conduct is that of a motor carrier transportation agent within the meaning of the Act. ⁽¹⁾ This alone is insufficient to justify the issuance of a license. The Act provides that a license shall not be issued to an applicant when it appears that he is not a fit and proper person to hold the same, or where it appears that the carriers for whom he proposes to operate are not complying or do not intend to comply with state laws or general orders of the Railroad Commission applicable to their operations. ⁽²⁾ The Commission must accordingly determine from the record in this proceeding whether applicant is qualified, within the meaning of the Act, to hold a license.

The class of carriers for whom this applicant intends to act are generally designated as "casual operators" and do not require authority from the Railroad Commission or the Interstate Commerce Commission. Before agreeing to act for a carrier, applicant intends to check very carefully in order to assure

(1) Section 2, Motor Carrier Transportation Agent Act.

(2) Section 6, Motor Carrier Transportation Agent Act.

himself that the carrier is a bona fide casual operator and not a regular passenger carrier operating in violation of federal law. Reasonable precautions will be taken to ascertain that the operator is a responsible citizen, and that his vehicle is in a safe condition to perform the proposed transportation. Records will be kept of all transactions consummated and these will, of course, be open to inspection by the Commission.

Applicant has had experience as a motor carrier transportation agent, having operated a travel bureau without a license from September, 1939, to March, 1941. During a portion of this period he was in partnership with Jack Castagna, but, upon becoming convinced that certain practices of Castagna were questionable, he immediately dissolved this connection. Sometime after the dissolution, Castagna was arrested for violation of the Motor Carrier Transportation Agent Act. However, the acts of Castagna, committed after dissolution of the partnership, cannot be attributed to applicant.

Evidence was presented concerning two complaints received by the Board of Public Utilities and Transportation of the City of Los Angeles from persons for whom applicant had arranged transportation. In view of the numerous transactions which must have been consummated during the period applicant was in business, such evidence cannot be considered as indicative of the manner in which the business was generally conducted. In fact, applicant's testimony tends to establish that the business was operated with reasonable regard for the interests of both passengers and car owners. Furthermore, the motor carriers represented were apparently lawfully engaged in interstate transportation.

By engaging in business without a license between September, 1939, and March, 1941, applicant was technically in violation of the Motor Carrier Transportation Agent Act. However, the opinion was generally held at that time that the Act did not apply to interstate operations of the kind conducted by applicant,⁽³⁾ and, therefore, no wilful intent to violate the law can be attributed to him. Immediately upon the Act being declared applicable to interstate transportation⁽⁴⁾ by the United States Supreme Court, he discontinued such business.

Applicant is a veteran of the World War and has resided in Los Angeles for the past seventeen years, where he has been engaged in various business enterprises, including the theater, beauty parlor, photograph and liquor businesses.

In summation, the record establishes that applicant is a law-abiding resident of Los Angeles, an experienced business man, and he seems prepared to act as a motor carrier transportation agent under license in a lawful manner, serving only carriers whose operations are lawful. In view of this, we conclude that he is a fit and proper person to receive a license as a motor carrier transportation agent, and that the motor carriers whom he proposes to represent will comply with state laws or general orders of the Railroad Commission of the State of California applicable to the operations of said motor carriers. Therefore, the license will be granted.

(3) See Motor Transit Co. et al v. Railroad Commission (D.C.S.D. Cal. 1936) 15 F. Supp. 630.

(4) People v. Thompson (April 28, 1941) 85 L. Ed. advance opinion 793.

A motor carrier transportation agent license may be revoked by the Commission when it appears that the holder has engaged in false advertising or false representation or has sold, offered for sale, or negotiated for sale, transportation by any carrier operating without the proper authority or in violation of state or federal laws or the general orders, rules and regulations of the Railroad Commission.⁽⁵⁾ It will be the policy of the Commission to revoke licenses with all possible dispatch when it appears that the holder is engaged in unlawful or improper practices.

Applicant is cautioned to inform prospective passengers that he exercises no control over the operation of the vehicle in which they are to ride but merely acts as an intermediary to place them in contact with the owner, and to refrain from false representations of any character whatsoever, either personally or by advertisements, concerning the financial responsibility of either the licensee or the car operator.

A motor carrier transportation agent's license is personal to the holder. He is not permitted to transfer or assign such license or to delegate his authority to employees;⁽⁶⁾ to do so would constitute a violation of the Motor Carrier Transportation Agent Act and subject the license to revocation.

(5) Section 10, Motor Carrier Transportation Agent Act.

(6) Section 9, Motor Carrier Transportation Agent Act.

Applicant's attention is directed to the provisions of Section 11 of the Act, and he is admonished scrupulously to comply therewith in every respect by making and keeping the records there specified.

O R D E R

Public hearing having been had in the above-entitled proceeding, evidence having been received, the matter having been submitted, and the Commission now being fully advised in the premises,

IT IS HEREBY ORDERED that William H. Johnson be and he is hereby licensed to engage in the business or act in the capacity of a Motor Carrier Transportation Agent, as defined in Chapter 390, Statutes of 1933, as amended, at the following location, to-wit, No. 230 East Seventh Street, Los Angeles, California, to sell, offer for sale, negotiate for, furnish, or provide transportation to destinations outside the State of California only; subject to the condition, however, that he shall, within sixty (60) days from the date hereof, provide and file with the Railroad Commission a good and sufficient surety bond in the sum of One Thousand Dollars (\$1,000) in accordance with the provisions of Section 8 of said Act and in form prescribed or approved by the Railroad Commission.

The license hereby granted shall expire on December 31, 1941, subject to the provisions for renewal prescribed or to be prescribed by the Railroad Commission; provided, however, that this license shall be inoperative and of no force or effect during any period when there shall not be in effect and on file with the

Railroad Commission for said William H. Johnson a good and sufficient surety bond in accordance with the provisions of said Section 8 of said Act and the rules and regulations of the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that, upon said William H. Johnson, within sixty (60) days from the date hereof, filing with the Commission a surety bond as hereinabove provided, the Secretary of the Railroad Commission be and he is hereby authorized and directed to issue and deliver to said William H. Johnson a certificate of the authority granted hereby.

This order shall be effective upon the date hereof.

Dated at Los Angeles, California, this 28th
day of October, 1941.








