

Decision No. 36697

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
SHARE PLAN TRAVEL BUREAU for a)	
license as Motor Carrier Transpor-)	Application No. 25802
tation Agent.)	

WESLEY G. FULLER, applicant, in propria persona.

C. C. JENSEN for Pacific Greyhound Lines, protestant.

JAMES GUNN for Board of Public Utilities and Transportation of City of Los Angeles, interested party.

E. C. RENWICK and DON B. MILLER for Interstate Transit Lines and Union Pacific Railroad Company, protestant.

W. F. BROOKS for Santa Fe Trailways and The Atchison, Topeka and Santa Fe Railway Company, protestants.

BY THE COMMISSION:

O P I N I O N

This is an application by Wesley G. Fuller, doing business as Share Plan Travel Bureau, for a license to engage in the business of a motor carrier transportation agent as defined in the Motor Carrier Transportation Agent Act (Chap. 390, Statutes 1933, as amended). A public hearing was held before Examiner Gannon in Los Angeles on October 14, 1943.

The application requests permission to engage in interstate as well as intrastate transportation of passengers.

The statute alluded to provides that, in the absence of action by Congress or the Interstate Commerce Commission regulating licenses of motor carrier transportation agents, the Motor Carrier Transportation Agent Act shall apply to and regulate

such agents. Section 203(b)(9) of the Interstate Commerce Commission Act exempts from the operation of the Act the casual, occasional or reciprocal transportation of passengers in interstate commerce.

On May 17, 1943, the United States Supreme Court, in a per curiam decision in the case of Wm. Levin et al. v. United States et al, (3 Federal Carriers Cases p. 2297) affirmed a decision of the United States District Court, Northern District of Illinois, Eastern Division, in T. A. Drake et al. v. United States et al, rendered without opinion on November 18, 1942. That decision held lawful an order of the Interstate Commerce Commission, entered March 21, 1942, in MC-35, which removed the exemption under section 203(b)(9) of the Interstate Commerce Act of casual, occasional, or reciprocal interstate transportation of passengers for compensation, where such transportation is sold, procured, provided, furnished or arranged for by a third person intermediary who engages in making such transactions as a regular business or occupation.

Confronted by this situation applicant, in the instant proceeding, stated at the hearing that he did not propose to press his application for a license to perform interstate transportation and accordingly his showing was confined to the necessity for intrastate service.

Applicant has been employed in various occupations during the past five years, part of the time in hotel work. At present he conducts a hotel reservation bureau at the Rosslyn Hotel at 111 West 5th Street, Los Angeles, and specializes in providing hotel rooms for guests who cannot secure reservations at the Rosslyn. for which service he charges a fee. He is forty-one years of age and apparently bears a good business reputation.

Applicant proposes to sell intrastate transportation in private cars on a share-the-expense plan in whatever means of transportation is available. He has had a number of requests for a service such as he proposes to render, particularly from hotel guests. The plan of operation contemplates the registration of cars by persons going on intrastate trips and an inquiry into their fitness and responsibility. He will procure passengers for cars so registered, and will collect fees from both parties for placing them in contact. He maintains a desk in the lobby of the Rosslyn Hotel for which he pays a monthly rental of \$50, and from which location he intends to carry on his business as agent. He anticipates an estimated profit of \$50 per week from the proposed service.

From the record before us we are of the opinion that the applicant should be licensed to operate as a motor carrier transportation agent to and from points within the State of California and it will be ordered that such license be issued to him. In view of the present heavy demands upon all types of transportation, and the consequent shortage of equipment, it would appear that the service proposed by applicant will supply a definite requirement of passengers who do not wish to avail themselves of the usual methods of transportation.

A motor carrier transportation agent's 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. (1) It will be the policy of the

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

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 another; ⁽²⁾ to do so would constitute a violation of the Motor Carrier Transportation Agent Act and subject the license to revocation.

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

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

IT IS ORDERED that Wesley G. Fuller, doing business as Share Plan Travel Bureau, be and he is hereby licensed to engage in

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

the business or act in the capacity of a motor carrier transportation agent as defined in Chapter 390, Statutes 1933, as amended, only at the following location, to-wit: Rosslyn Hotel, 111 West 5th Street, Los Angeles, California; to sell, offer for sale, negotiate for, furnish, or provide transportation to destinations within 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 (\$1000) in accordance with the provisions of Section 8 of said Act and in a form prescribed or approved by the Railroad Commission.

IT IS FURTHER ORDERED that this license shall expire on December 31, 1943, subject to the provisions for renewal 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 Wesley G. Fuller 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 FURTHER ORDERED that upon said Wesley G. Fuller 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 Wesley G. Fuller a certificate of the authority granted hereby.

IT IS FURTHER ORDERED that the above described license be issued upon the condition that operations authorized thereunder shall be conducted in accordance with all applicable rules, regulations and requirements relating thereto issued by the

Commission under the Motor Carrier Transportation Agent Act
(Statutes 1933, Chapter 390, as amended).

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 9th day
of November, 1943.

Francis A. Havenor

J. H. B. M.

Justus F. Garner

Richard L. Lusk

Frank W. Lewis

COMMISSIONERS