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Decision 97-01-038 January 23, 1997

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation and)
 Order to Show Cause into the)
 operations and practices of Joe)
 Burnley, Sr. [TCP 9811] and)
 consolidation with Application (A.))
 96-05-041.)

I.96-09-031
(Filed September 20, 1996)

INTERIM OPINION

Background

On September 20, 1996, the Commission opened this Order Instituting Investigation (OII) into the operations and practices of Joe Burnley, Sr., doing business as Royal Circle, Ltd. (TCP 9811-P), and consolidated it with Application (A.) 96-05-041, the application of Ena Davis and Joe Burnley, Sr. for passenger stage authority. The OII was instituted to determine if respondent has violated:

1. Vehicle Code Section 1808.1 and General Order (GO) 157, part 5.02 by failing to enroll all of his drivers in the Department of Motor Vehicles' (DMV) Pull Notice Program;
2. Airport rules and GO 157, part 3.02 by failing to obey airport rules and regulations;
3. Public Utilities (PU) Code Section 5401 and Penal Code Section 654.1 by assessing individual customer fares; and
4. GO 157, part 3.01 by soliciting customers, who must be transported only on a prearranged basis.

The OII stated, in part, :

"4. If staff finds that there is evidence that the alleged conduct or pattern of violations by the respondent continues after this order is served on him, it...may ask for suspension of the respondent's operating authority pending the final outcome in this proceeding."

On November 25, 1996, the Rail Safety and Carriers Division's (RSCD) Enforcement Section filed a motion for suspension pending resolution of this proceeding.

RSCD states that it personally served the OII on Joe Burnley, Sr., on October 3, 1996.

Attachment 2 to the motion is the Declaration of Richard J. Molzner/Second Supplement to Investigative Report, dated October 18, 1996, which alleges several subsequent violations of the same type as noted in the OII. On October 10, 1996 respondent was observed driving a van without a current San Francisco Airport (SFO) decal, and was cited by SFO police. The van also had no markings or identification indicating the name of the carrier, in violation of GO 157-C, part 4.03. The next day, October 11, 1996, SFO police issued an admonishment to respondent for soliciting passengers on the lower level of the South Terminal, in violation of Section 6.04 of the Penal Code.

Attachment 3 to the motion alleges a further violation. On November 14, Joe Burnley, Jr., a chauffeur employed by Royal Circle, Ltd., was cited by SFO police for violating the following San Francisco International Airport (SFIA) rules and regulations:

SFIA 1.4.7(E) (10) No Permit

SFIA 1.4.7(A) (8) No waybill

SFIA 1.4.7(e) (26) Altering Passenger Choice

Discussion

The continuing violations that are the subject of this investigation are serious and troubling. When we opened this OII we were concerned that the violations indicated in this OII might continue, and they apparently have. Therefore, we find good cause to suspend respondent's operating authority pending the final outcome of this proceeding.

Finding of Fact

RSCD has presented evidence of continuing violations by respondent of the type as noted in this OII.

Conclusion of Law

The operating authority of respondent should be suspended, pending the final outcome of this proceeding.

INTERIM ORDER

IT IS ORDERED that:

1. The operating authority of Joe Burnley, Sr., doing business as Royal Circle, Ltd. (TCP 9811-P), is suspended pending the final outcome of this Order Instituting Investigation.
2. Evidentiary hearings in this matter will be scheduled and noticed.

This order is effective today.

Dated January 23, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners