

Decision No. 18718

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Investigation on
the Commission's own motion into the
practices, rules, regulations and oper-
ations of William Relph, Joseph Relph,
Harry Relph and John Relph, operating
an auto trucking service under the firm
name and style of Relph Transportation
Company.

Case No. 2331.

Reginald L. Vaughan, for California
Railroad Commission.

BY THE COMMISSION:

O P I N I O N

In the above entitled matter this Commission, upon its own motion, instituted an investigation into the practices, rules, regulations and operations of William Relph, Joseph Relph, Harry Relph and John Relph, doing business under the fictitious name of Relph Transportation Company, and operating, under certificate granted by this Commission by Decision No. 15996 on Application No. 11316, a public service for the transportation of milk and dairy products between Ontario and certain contiguous territory, and El Monte and Los Angeles.

A public hearing herein was conducted by Examiner Williams at Los Angeles, at which time the matter was duly submitted and now is ready for decision. At this hearing respondents made no appearance in their behalf, nor were they present, nor was any testimony offered in their behalf from any source.

Testimony was received from W. F. Lemon, Service

Inspector of this Commission, and Joseph Perumean, and upon the testimony of these witnesses and the admission of certain files and decisions of the Railroad Commission, the record herein was completed. From this record we find the following facts:

That on or about January 1, 1927, respondents herein turned over to Joseph Perumean and S. J. Stratton all their equipment and business, and thereupon ceased themselves to conduct any further transportation or to observe any of their duties under the certificate granted under Decision No. 15996 on their Application No. 11316.

That said transfer of equipment and business to the said Perumean and Stratton was under a purported agreement of sale, which said agreement of sale was never consummated, due to the fact that the equipment delivered to Perumean and Stratton was repossessed for debt by its legal owners on January 17, 1927, and respondents herein provided no further equipment for the maintenance of the service.

That on or about January 20, 1927, the affairs of respondents herein were taken over in bankruptcy proceedings in the United States District Court in and for the Southern District of California, before Referee C. W. Monahan of San Bernardino, and H. A. MacClyment of Riverside was made trustee for the creditors of the estate of bankrupts herein; that at no time has said trustee, in behalf of bankrupts' estate, offered or provided equipment or facilities to conduct the service transferred by respondents; and that said MacClyment in writing, and said Monahan, as referee, in writing, through their counsel, O.K. Morton, have advised this Commission that no protest would be made in the instant proceeding against the revocation of the certificate heretofore granted under Decision No. 15996 on Application No. 11316.

That said Perumean and Stratton withdrew from the purchase agreement, and procured, at their own cost, adequate equipment to conduct the service thus turned over to them by respondents herein and by respondents abandoned; that thereafter Perumean and Stratton conducted this service until this Commission granted to Shakarian, Kardashian, Perumean and Stratton, a co-partnership, a certificate of public convenience and necessity to conduct said operation under Decision No. 18538 on their Application No. 13526, dated June 22, 1927.

That at no time since January 1, 1927, have respondents herein performed any service or met any duty imposed upon them by the certificate granted to them by Decision No. 13996 on Application No. 11316; that they have, ever since January 1, 1927, abandoned said operation described in said certificate; and since said date have not made any offer or performed any act toward resumption of said service as was their duty under said certificate.

Basing our opinion upon the foregoing finding of facts, we believe that the certificate heretofore granted to respondents herein by Decision No. 15996 on Application No. 11316 should be revoked and annulled for good and sufficient cause.

O R D E R

An order having been issued on March 1, 1927, to William Relph, Joseph Relph, Harry Relph and John Relph, operating under the fictitious name of Relph Transportation Company, to appear and respond to an inquiry into the practices, rules, regulations and operations of said respondents, a public hearing having been held, the matter having been duly submitted, the Commission being now fully advised, and basing its order on

the finding of facts as set forth in the preceding opinion,

IT IS HEREBY ORDERED that the certificate of public convenience and necessity heretofore granted by this Commission by its Decision No. 15996 on Application No. 11316 to William Relph, Joseph Relph, Harry Relph and John Relph, doing business under the fictitious name of Relph Transportation Company, for the transportation of milk, cream and dairy products between the districts indicated below and Ontario and Los Angeles, and for the return transportation of articles and commodities necessary for the business of dairying and consigned only to dairymen shipping from said districts over applicants' service to Ontario or Los Angeles, including feed, dairy supplies, acetylene tanks, ammonia vats, utensils and machinery used exclusively in the business of dairying, and for no other service or commodities, be and the same hereby is revoked and annulled.

Dated at San Francisco, California, this 16th
day of August, 1927.

C. Seavey

Leon Whitell

Thos. S. Lott

M. J. Cur
Commissioners.