

Decision No. 18801

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Complaint of  
V. L. HAYNES and FAY HAYNES, oper-  
ating an automobile freight line  
between Fresno, Hanford and Lemoore,  
via Laton,

Plaintiff,

Case No. 2366.

-vs-

JACK HIRONS,

Defendant.

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G. Levin Aynesworth, for Complainants.

BY THE COMMISSION:

O P I N I O N

The above entitled matter came on regularly for hearing before Examiner Satterwhite on August 2, 1927, at 10:00 a.m. at Fresno, said complainants being represented by G. L. Aynesworth. Said defendant failed to appear in person or by an attorney.

V. L. and Fay Haynes, complainants above named, co-partners, operate an authorized motor truck service under and by virtue of this Commission's Decision No. 12765 on Application No. 9409 between Fresno, Hanford and Lemoore, via Laton.

Complainants allege in their complaint, in substance and effect, that defendant Jack Hirons has for several months last past, without permission first had and obtained from this Commission,

been maintaining and conducting an auto truck line between Fresno and Lemoore and also between Fresno and Hanford as a common carrier of freight for compensation and that in the conduct of said operations has transported freight as a common carrier for divers persons and firms between the aforesaid communities and operates on a regular schedule.

Complainants pray for an investigation of the complaint and an order enjoining defendant from operating as a common carrier and from interfering with the operative rights of said complainants.

The answer of said defendant Jack Hiron, as filed herein, admits and alleges in substance and effect that he has been hauling for several months last past freight between the city of Fresno and the cities of Lemoore and Hanford, but denies that he has been maintaining and conducting or maintaining or operating an auto freight line as a common carrier of freight between said communities. Defendant further admits that he has engaged in transporting freight and merchandise between Fresno and Lemoore and Hanford for certain persons and firms, but that said hauling has been conducted under contracts with these said persons and firms, whereby said defendant has agreed to haul merchandise from such points as may be designated in Fresno to the firms or merchants in Lemoore and Hanford and to furnish trucks and drivers and haul such quantities of merchandise as required by said persons and firms. Defendant further alleges that he is not obligated to make trips on regular schedule, or on any fixed days and that the dates of trips are subject to agreement between the defendant and the parties for whom he hauls merchandise.

Defendant alleges that he is engaged in business solely as a contract carrier for certain persons and firms and is not

operating as a common carrier between the points alleged in said complaint. Defendant prays for an order of this Commission dismissing said complaint on the ground that he is engaged in business as a private contract carrier and not otherwise.

Complainants offered evidence to the effect that for several months prior to the filing of said complaint and ever since January 1, 1927, the defendant has without any authority from this Commission been maintaining and conducting an auto freight line between the city of Fresno, in the county of Fresno, and Lemoore, Kings county, and also between the city of Fresno and the city of Hanford, and has generally solicited from various persons and firms and has accepted from said persons and firms goods, wares and merchandise to be hauled between the above named points and has in fact been engaged in general hauling of freight and merchandise between said points and communities for which he has charged and received compensation from the consignors of such freight. The record shows that the defendant has engaged in general hauling and transportation of freight for various persons and firms, among whom are the following:

Economic Store at Lemoore  
Economic Store at Hanford  
W. L. Scalley  
Arcia Brothers  
Lemoore Cash Store  
B. T. Moyer  
Parker & Wilson  
C. Graves  
C. J. Campbell  
Al Brownstone

and that each and all of said persons and firms have a place of business in the city of Lemoore and regularly have freight hauled from the city of Fresno to their place of business in Lemoore.

It is further shown that the Fresno Tobacco Company has employed Hiron to haul freight from its place of business in the city of Fresno to its patrons in the city of Lemoore.

The evidence further shows that defendant has in the last few months hauled for divers other persons and that in the operation of said freight service defendant has made almost daily trips between these various communities and has always charged compensation for all freight carried. The record shows that the rate charged by defendant was considerably below the established rates of complainants now on file with this Commission.

After a careful consideration of the evidence and record in this proceeding, we are of the opinion and hereby find as a fact that the operations heretofore conducted by defendant Jack Hirons have been that of a transportation company in the carriage of property as a common carrier for compensation over the public highway between Fresno and Hanford and between Fresno and Lemoore and for which operation no certificate of public convenience and necessity has been granted by this Commission.

C R D E R

A public hearing having been held in the above entitled complaint, the matter having been duly submitted, the Commission being now fully advised, and basing its order on the findings of fact, as set out in the foregoing opinion preceding this order,

IT IS HEREBY ORDERED that defendant Jack Hirons be and he hereby is directed to immediately discontinue the transportation of property by auto truck for compensation over the public highway between the city of Fresno and Lemoore, and between the city of Fresno and the city of Hanford and to perform no further service as a transportation company in the carriage of property as a common carrier for compensation between said termini until said defendant shall have procured a certificate of public convenience and necessity from this Commission as required by the

provisions of Chapter 213, Statutes of 1917, and effective amendments thereto,

IT IS HEREBY FURTHER ORDERED that the secretary of this Commission be and he hereby is directed to forward by registered mail a certified copy of this order to the district attorneys of Fresno and Kings counties.

The effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of September, 1927.

C. Seaver

Thos. S. Powell

M. J. Lewis  
Commissioners.

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