

ORIGINAL

Decision No. 1923.1

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

BAKERSFIELD & LOS ANGELES FAST FREIGHT  
COMPANY, a corporation, and LOS ANGELES  
& WEST SIDE TRANSPORTATION COMPANY, a  
corporation,

Complainants,

vs.

Case No. 2395.

NICK GOMBOS, P. G. CLARK, L. A. WAGNER,  
THE RIDGE ROUTE SERVICE COMPANY, a co-  
partnership, GOLDEN WEST FILM TRANSPOR-  
TATION COMPANY,

Defendants.

Hugh Gordon, for Complainants,

Richard T. Eddy, for Defendants.

BY THE COMMISSION:

O P I N I O N

The complainants herein are transportation companies and common carriers of freight by automobile trucks operating under proper authorization of this Commission between Bakersfield and Los Angeles, and between points in the West Side oil fields and Los Angeles.

By virtue of Decision No. 15127 on Application No. 10720 defendant Nick Gombos was heretofore granted a certificate of public convenience and necessity to operate an automobile truck service as a common carrier exclusively of motion picture films together with posters, lobby displays and general advertising matter

used in connection therewith between Los Angeles on the one hand and Bakersfield, Taft, Maricopa and Fellows on the other hand, but with no local service between these respective communities.

Defendants P. G. Clark and L. A. Wagner are, or have been, associated with Gombos in the transportation business.

Defendant Ridge Route Service Company is a partnership composed of Gombos, Clark and Wagner for the purpose of buying and selling merchandise and transporting same from the point of purchase to the point of sale.

Defendant Golden West Film Transportation Company is alleged to be an organization the nature of which is not disclosed in the complaint but presumed to be engaged in the transportation business with defendant Gombos.

It is alleged in the complaint that Gombos either operating as an individual or in conjunction with defendants Clark and Wagner as partners under the firm name of Ridge Route Service Company has engaged in the transportation of general merchandise other than that specified in his certificate, between the above mentioned points, and that he has assigned, leased or transferred to others the rights acquired under such certificate.

A public hearing was held before Examiner Cannon at Los Angeles, at which time the matter was submitted and is now ready for decision.

In support of the allegations set forth in the complaint, complainant called three witnesses, viz.: defendants Clark and Wagner and one J. T. Robertson, Manager of Bakersfield & Los Angeles Fast Freight Company and Los Angeles and West Side Transportation Company. The testimony of Clark was taken by way of deposition, in as much as he was obliged to leave the state prior to the hearing. This witness testified that he, together with defendants Gombos and Wagner, formed a partnership under the name of Ridge Route Service

Company the purpose of which was to buy and sell merchandise, the orders being taken chiefly in Bakersfield and filled in Los Angeles, and then transported by their trucks and delivered at store doors. This witness took the orders and stated that as a result of his efforts the company carried out of Los Angeles on the first day of operation about four tons of merchandise destined for Bakersfield. Clark further testified that in case customers did not chose to buy from Ridge Route Service Company but desired to purchase goods from their own dealers on open book accounts, the defendant Clark would acquiesce in such arrangement picking up the merchandise and charging a reasonable rate for its delivery. He enumerated a dozen or more customers served in this manner over a period of approximately three months. Witness stated he had asked defendant Gombos, who was apparently the financial guiding spirit of the enterprise, whether the practice thus indulged of picking up miscellaneous freight and transporting same for compensation was not dangerous in view of the limitations of their certificate, but Gombos gave him every assurance that there would be no interference. Witness related that he finally withdrew from the partnership because it was unprofitable for him.

J. T. Robertson, Manager of Bakersfield & Los Angeles Fast Freight Company, and Los Angeles & West Side Transportation Company, complainants in this action, testified that he had seen the trucks of Ridge Route Service Company and of Golden West Film Transportation Company making deliveries of groceries and other merchandise on the Ridge Route and in and about Bakersfield as often as three or four times a week during the period from January to April, 1927. However, the witness could not testify that such deliveries were not of goods bought by Gombos and sold by him in the usual course of his business operating as Ridge Route Service

Company. He stated that the transportation rates offered by defendant Gombos and Ridge Route Service Company were more attractive than those of complainant companies, as a result of which considerable tonnage was temporarily lost by them.

Defendant Wagner testified that he was employed by Gombos on a salary and that he solicited orders while driving his truck. His testimony further shows that he operated under the direction of defendant Clark and in the same manner as was testified to by Clark. Witness stated defendant Gombos had no knowledge of such practice and in fact had repeatedly instructed the witness not to engage in such operations under penalty of dismissal. The customer usually paid the freight charges and the money so collected was divided between defendant Clark and the witness. According to this witness, Clark approached him with a proposition to make money on the side and proposed the plan later put into operation. Gombos knew nothing whatever of freight hauled on the film truck and received no financial benefit from such business. This witness testified that the truck-load of four tons of merchandise out of Los Angeles destined to Bakersfield, and referred to in the testimony of Clark, was driven by Gombos himself and consisted only of property owned by Ridge Route Service Company.

Defendants called two witnesses, William H. Neill and Nick Gombos. Neill acted in the capacity of book-keeper for Gombos and was familiar also with the business of Ridge Route Service Company and Golden West Film Transportation Company, both defendants herein. His testimony was that the books of these companies contained no record whatsoever of transportation service or of any money received for such service.

Defendant Gombos testified that he had never handled

on his film trucks any freight other than such as was permitted under his certificate from this Commission, and that his drivers had been repeatedly warned by him to receive no goods for shipment save and except in strict accord with the terms and conditions of his certificate. Moreover, he stated that if any of his drivers violated such instructions they did so without his knowledge. As to the allegation of the complainants that witness had assigned, sold, leased or transferred to others the rights acquired under his certificate from this Commission, Gombos denied such allegation and stated that he was the sole owner of such rights. He had no knowledge of the alleged violation of certificate until served with this complaint, whereupon he discontinued entirely the Ridge Route service.

A careful consideration of the evidence herein adduced fails to disclose any substantial proof of the allegations set forth in the complaint.

Clark, called as a witness by complainants, and a defendant in this proceeding, was formerly in the employ of Gombos and by his testimony admits having transported general merchandise for compensation in the Gombos trucks. He stated that Gombos was a beneficiary of such practice. Witness Wagner, also a defendant herein and associated with Gombos at present, testified that he had hauled merchandise under the direction of Clark and in the manner testified to by that witness, but that all moneys received as freight charges were split between Wagner and Clark and that Gombos had no knowledge of freight hauled on the film trucks other than such as was permitted under the Commission's order. Witness Robertson, manager of the two complainant companies, testified that he had seen the loaded trucks of Ridge Route Service Company in and around Bakersfield, but did not see them actually making deliveries and hence was unable to say whether or not they were generally transporting freight

for compensation.

The testimony of defendant Gombos is directly at variance with that of witnesses Clark, Wagner and Robertson and we are inclined to believe that at least as much weight should be given to the testimony of this witness as might be accorded to the testimony of witnesses Clark and Wagner.

The record is quite clear that Clark and Wagner agreed between themselves to transport general merchandise on the Gombos trucks and that they and not Gombos were the ones to profit by such operation. In fact the testimony of Gombos is that he repeatedly cautioned all his drivers against any temptation to carry freight on the film trucks, except such as was specified in the order granting him a certificate. While the Commission does not feel that the evidence in this case warrants a revocation of the certificate heretofore granted to defendant Gombos, it does avail itself of this opportunity to caution said Gombos against further laxity in the enforcement of the terms and conditions of such certificate either by himself or on the part of his employees.

An order will be made dismissing the complaint.

#### O R D E R

A public hearing having been held in the above entitled case and it appearing to the Commission from the findings set out in the foregoing opinion that said complaint is not well founded and should be dismissed;

IT IS HEREBY ORDERED BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this 10<sup>th</sup> day of January, 1928.

Leon Whittell  
C. Seamy  
Ernest W. ...  
Thos. S. Lovell

Commissioners.