

Decision No. 19781.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of J. W. Ritzman for a certificate of public convenience and necessity to operate an auto truck freight transportation service, as a common carrier, between Los Angeles, Los Angeles Harbor District and other points in Los Angeles, Orange, Riverside, San Bernardino and Imperial Counties.

ORIGINAL

Application No. 14379.

John M. Joyce, for Thelen & Marris, for Applicant.

James L. Ronnow, for City Attorney Jess E. Stephens, City Attorney of Los Angeles, and for Board of Public Utilities of the City of Los Angeles, Protestants.

H. J. Bischoff, for Imperial Valley-Los Angeles Express and for Motor Service Express, Protestants.

L. C. Zimmerman, for Southern Pacific Company, Protestant.

Kidd, Schell & Delamer, by G. F. H. Delamer, for Keystone Express, Protestant.

F. E. Asbury, for Asbury Truck Company, Protestant.

J. T. Puckett, for Wilmington Transfer & Storage Company, Protestant.

Phil Jacobson, for Tolson Transportation Company, Protestant.

T. A. Woods and Edward Stern, for American Railway Express Company, Protestant.

BY THE COMMISSION:

O P I N I O N

The above entitled application having been filed herein, the matter was set for hearing at Los Angeles on April 10th

before Examiner Rowell. Prior to the hearing an affidavit was filed by certain protestants alleging that the applicant had for at least two years preceding been operating as a common carrier in willful violation of law. At the outset of the hearing said protestants moved that the question of applicant's qualifications and fitness to engage in the business of transportation as a common carrier be first heard and determined by the Commission before the taking of any evidence pertaining to the public need for the proposed service. Thereupon evidence pertaining to such issue was introduced and upon motion the one issue submitted for decision.

The evidence introduced by protestants clearly shows that applicant has willfully operated as a common carrier without obtaining a certificate from this Commission so to do. He has operated motor trucks for hire between Los Angeles and points in the Imperial Valley, transporting commodities of various descriptions for numerous persons, and holding himself out to the public as engaged in the general trucking business. The applicant admits that his business is extensive and that he accepts all business which he considers desirable. He admits also that in only a few cases has he entered into any specific contracts.

On several occasions his trucks were stopped by police officers of the City of Los Angeles and contents inspected, revealing shipments from various dealers in Los Angeles, largely grocers and hardware dealers, consigned to numerous persons at Imperial Valley points. The trucks departed from his place of business in Los Angeles. Mr. Ritzman, it appears, owned none

of these trucks, but he was seen about his depot personally assisting in the conduct of the business. All shipping papers were executed in the name of the J. C. Ritzman Truck Company. Three police officers, as well as the service inspector of the Railroad Commission, testified directly to these facts.

Mr. Ritzman testified that he disposed of his business about February 1, 1928, to one Harry Ball. An attempt was made by protestants to prove that the transfer was a mere fiction and that Mr. Ritzman continues to operate under an assumed name. It was shown also that Mr. Ritzman has twice been arrested and found guilty by the Municipal Court of the City of Los Angeles for operating within the city without having first obtained a permit so to do. We shall not consider the weight or materiality of such evidence. We are convinced that apart therefrom there is a sufficient showing that the applicant has for several years conducted a general transportation business as a common carrier for compensation, between fixed termini or over a regular route, in willful violation of the Auto Stage & Truck Transportation Act. To characterize his service as that of a contract or private carrier is a mere pretense.

This Commission has frequently refused to grant a certificate of public convenience and necessity to an applicant who has willfully operated as a common carrier for compensation without having first obtained a certificate from this Commission. We are of the opinion that, under the showing of protestants that this applicant has continuously operated in violation of law, we would not be justified in granting to him a certificate of public convenience and necessity, and find, therefore, that

public convenience and necessity does not require his proposed operation.

ORDER

The above entitled application having been filed, the matter coming on to be heard, and motion having been made by protestants to deny the application upon the evidence received, said motion having been duly submitted and the Commission being fully advised, and basing its order on the findings of fact and the conclusions contained in the foregoing opinion the said motion is hereby granted; and

IT IS HEREBY ORDERED, that the application of J. W. Ritzman be and the same is hereby denied.

Dated at San Francisco, California, this 18th day of May, 1928.

Leon Whitely
C. Seamy

Paul S. Lewis

W. A. Lee
Commissioners.