

Decision No. 5419.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

H. C. GREVE,

Complainant,

vs.

JOE GARCIA,

Defendant.

ORIGINAL

Case No. 3241.

Rex W. Boston, for complainant.

H. E. Lindersmith, for defendant.

BY THE COMMISSION:

O P I N I O N

In this proceeding H. C. Greve, complainant, who is a common carrier transporting live stock by auto trucks, alleges that Joe Garcia, the defendant, is hauling live stock by auto trucks between points in the State of California, in competition with complainant without having first obtained a certificate of public convenience and necessity. The prayer is that this Commission order defendant to cease and desist from the unlawful operations over the public highways until a certificate of convenience and necessity to serve as a common carrier has been obtained from the Railroad Commission as required by Chapter 213, Statutes 1917.

The defendant by his answer denies specifically all of

the material allegations contained in the complaint.

A public hearing was conducted at Los Angeles by Examiner Geary June 30, 1932, when an adjournment was taken until August 11, 1932.

Complainant operated as a common carrier of live stock under a certificate of public convenience and necessity originally issued to C. H. Warrington in Application No. 9979 of August 13, 1925, and transferred February 8, 1926, by Decision No. 15953 in Application No. 12197, to H. C. Greve.

Prior to August 11, 1932, complainant requested a postponement of the hearing, and later, through bankruptcy proceeding, the operating rights were sold to I. J. Nathan (Application 18493, Decision 25335, November 7, 1932).

Under date of November 16, 1932, complainant's attorney in writing requested that the proceeding be dismissed without prejudice. It follows that this action should be dismissed.

O R D E R

This case having been partly heard, and basing this order on the conclusions contained in the preceding opinion,

IT IS HEREBY ORDERED that Case 3241 be and it is hereby dismissed. without prejudice.

Dated at San Francisco, California; this 5th day
of December, 1932.

W. J. Geary
Leon Whitely
W. J. Geary
W. B. Brown
Fred G. Stearns
Commissioner