

Decision No. 25795.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

COAST TRUCK LINE,
Complainant,

vs.

S. YAMAMOTO,
VISTA PRODUCE ASSOCIATION,
JACK WATSON, and
CARLSBAD VEGETABLE ASSOCIATION,
Defendants.

Case No. 3393.

ORIGINAL

H.J. Bischoff, for Complainant.

J. Marion Wright, for Defendants S. Yamamoto
and T. Ikemi.

Ross Johnston, for Defendants Carlsbad Produce
Growers Association, Ltd. and Jack Watson.

BY THE COMMISSION:

O P I N I O N

Complainant, Coast Truck Line, a corporation, is a common carrier transporting property under certificate granted by this Commission between San Diego and Los Angeles by two routes and serving Vista and Carlsbad as intermediate points. The complaint charges defendant Jack Watson with unlawful common carrier operations by auto truck between Carlsbad and Los Angeles, and charges defendants Yamamoto and Ikemi with unlawful common carrier operations by auto truck between Vista and Los Angeles.

A public hearing was had before Examiner Kennedy at Oceanside on February 17, 1933, on which date the case was submitted.

The facts as developed at the hearing may be summarized briefly as follows:

Approximately a dozen produce growers of Carlsbad and vicinity formed an association and employed defendant Watson, who owns a small truck, to transport vegetables and fruits, in season, to Los Angeles. The association guarantees him \$10.

for each trip, which amount is paid by those actually furnishing cargo in proportion to the number of crates or bags shipped by each. Watson, upon receipt of the shipments, is authorized to transport them to Los Angeles and dispose of them, in his own discretion, to the best advantage of the shipper. In fact, the growers consign them to Watson for sale and he does not sell them at the public market. In no instance are the shipments consigned to a fixed destination. In season this happens several times a week, being governed by the Carlsbad harvest and market conditions. This method of handling the produce, it is claimed, avoids consignment to a particular commission house which already may have an abundance of the commodity. Watson's duty is to find a commission house that can receive and sell the produce. The method was devised because consignments shipped by common carrier service must be to a particular consignee. In addition, Watson purchases groceries and other commodities in Los Angeles, which he sells to stores at Oceanside and Carlsbad.

The record shows that defendant Yamamoto is employed by four Japanese farmers as a laborer. He owns a truck, and during the harvest season transports the produce of these four farmers from Vista to Los Angeles. He is compensated for the use of his truck at a rate of 12 cents per lug and 23 cents per sack or crate. The evidence shows that he does no other hauling and has refused to transport shipments of others, referring them to the service of complainant.

Defendant Ikemi drives a truck owned by one Nakamura, who has eighty acres of land near Vista. Defendant's father and T. Ono, K. Kurawana and Y. Nagahiro are foremen employed by Nakamura, each foreman handling twenty acres. They do not share in the business and the property transported by Ikemi is that of Nakamura. The record does not show any other operation by Ikemi. His business

is confined to hauling only harvested products in season and is scattered throughout the year.

The record does not disclose that any of the defendants have conducted unlawfully any transportation of property as a common carrier. An order of dismissal will be entered.

O R D E R

The above entitled matter having been submitted at a public hearing and the Commission being fully advised in the premises, and basing its order on the facts found in the opinion preceding,

IT IS HEREBY ORDERED that the complaint be and the same hereby is dismissed.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 3rd day of

April 1933.

Cl. Lavery
Leon White
M. J. Lee
M. B. Lewis
W. H. Moore
Commissioners