

Decision No. 25817

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC.,
a corporation,
Complainant,

vs.

JOSEPE COHEN, doing business under the
fictitious name and style of Joseph
Cohen Truck Line, FIRST DOE, SECOND
DOE, THIRD DOE, FOURTH DOE, FIFTH DOE,
FIRST DOE CORPORATION, SECOND DOE
CORPORATION, THIRD DOE CORPORATION,
FOURTE DOE CORPORATION, FIFTH DOE
CORPORATION,
Defendants.

ORIGINAL

Case No. 3450.

Reginald L. Vaughan and Scott Elder, by
W. S. Johnson, for complainant.

Charles Kasch for defendant.

BY THE COMMISSION:

O P I N I O N

By complaint filed on December 22, 1932, complainant charges Joseph Cohen with unlawful common carrier operations by auto truck between San Francisco and Healdsburg, Geyserville, Cloverdale, Hopland, Ukiah and intermediate points.

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

The facts as developed at the hearing may be summarized briefly as follows: Numerous merchants of the City of Ukiah and the defendant himself testified that he was engaged in the general trucking business between Ukiah and San Francisco. The defendant held himself out to the public as hauling any and every kind of article. He advertised in a local paper and solicited business. He secured written contracts, and he had a great number of these

contracts in effect and would make a contract with any person to haul anything from Ukiah to San Francisco or vice versa. Defendant testified that he started this business after securing a state contract to haul for the State Hospital located near Ukiah. There is no doubt that this defendant is engaged in the common carrier business between the points mentioned.

A cease and desist order should issue.

An order of this Commission finding an operation to be unlawful and directing that it be discontinued is in its effect not unlike an injunction issued by a court. A violation of such order constitutes a contempt of the Commission. The California Constitution and the Public Utilities Act vest the Commission with power and authority to punish for contempt in the same manner and to the same extent as courts of record. In the event a party is adjudged guilty of contempt, a fine may be imposed in the amount of Five Hundred Dollars (\$500.00), or he may be imprisoned for five (5) days, or both. C.C.P. Sec. 1218; Motor Freight Terminal Co. v. Bray, 37 C.R.C. 224; re Ball and Hayes, 37 C.R.C. 407; Wermuth v. Stamper, 36 C.R.C. 458; Pioneer Express Company v. Keller, 33 C.R.C. 571.

It should also be noted that under Section 8 of the Auto Truck Transportation Act (Statutes 1917, Chapter 213, as amended), a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine of not exceeding One Thousand Dollars (\$1000.00), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Likewise a shipper or other person who aids or abets in the violation of an order of the Commission is guilty of a misdemeanor and is punishable in the same manner.

O R D E R

IT IS HEREBY FOUND AS A FACT that Joseph Cohen, doing business under the fictitious name and style of Joseph Cohen Truck Line, is operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Transportation Act (Chapter 213, Statutes 1917, as amended), with common carrier status between San Francisco and Healdsburg, Geyserville, Cloverdale, Hopland, Ukiah and intermediate points, and without a certificate of public convenience and necessity or prior right authorizing such operations.

Based upon the finding herein and the opinion,

IT IS HEREBY ORDERED that Joseph Cohen, doing business under the fictitious name and style of Joseph Cohen Truck Line, shall cease and desist directly or indirectly or by any subterfuge or device from continuing such operations.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a copy of this decision to be personally served upon Joseph Cohen, that he cause certified copies thereof to be mailed to the District Attorneys of Mendocino, Sonoma, Marin and San Francisco Counties, to the Board of Public Utilities and Transportation of the City of Los Angeles and to the Department of Public Works, Division of Highways, at Sacramento.

The effective date of this order shall be twenty (20) days after the date of service upon defendant.

Dated at San Francisco, California, this 13th day of

April, 1933.

C. S. J. J. J.
Leon Whiteley
M. A. J. J.
M. B. J. J.
W. J. J. J.
Commissioners.