

Decision No. 126710

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on the Commission's own motion into the rates, rules, regulations, charges, classifications, contracts, practices and operations, or any of them, of Allen Bros. Inc., a corporation; D. W. Griggs, operating under the fictitious name of American Warehouse; M. Jaspersen, operating under the fictitious name of Arlington Van & Storage Company; Bekins Van Lines, Inc.; a corporation; A. Otis Birch, a corporation; California Fireproof Storage Company, a corporation; California Truck Company, Inc., a corporation; W. E. Fessenden, operating under the fictitious name of California Warehouse Company; Central Warehouse and Storage Company, a corporation; H. G. Chaffee Warehouse Company, a corporation; Helen Nicholson-Lois Nicholson, co-partners operating under the fictitious name of Chicago Van & Storage Company; L. E. Manor, operating under the fictitious name of Citizens Warehouse; J. A. Clark Draying Company, Ltd., a corporation; Curtis C. Colyear, operating under the fictitious name of Colyear's Van & Storage Co.; Cook-McFarland Company, a corporation; Davies Warehouse Company, a corporation; G. Eckdahl, operating under the fictitious name of G. Eckdahl & Son Warehouse Company; Farmers Grain and Milling Company, a corporation; Frank R. Palmateer and Robert F. Palmateer, co-partners operating under the fictitious name of Fidelity Van & Storage; Globe Warehouse Company, a corporation; E. J. Heyn, operating under the fictitious name of H. & J. Truck & Warehouse Company; Jennings Nibley Warehouse Company, Ltd., a corporation; F. C. Johnson; Roy B. Sumner, operating under the fictitious name of Pacific & Orient Dock; O. C. Butler-H. A. Grundy, co-partners operating under the fictitious name of Pacific Transportation Company; Paul Kent Truck Co. Inc., a corporation; Lincoln Fireproof Storage Company, a corporation; Long Beach Transfer & Warehouse Company, Inc., a corporation; Los Angeles Compress & Warehouse Company, a corporation; Metropolitan Warehouse Company, a corporation; Modern Warehouses Incorporated, a corporation; Outer Harbor Dock and Wharf Company,

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a corporation; Overland Terminal Warehouse Company, a corporation; Pacific Coast Terminal Warehouse Company, a corporation; Pacific Commercial Warehouse Inc., a corporation; Richards Trucking & Warehouse Company, a corporation; Vern M. Osborn, operating under the fictitious name of Salt Lake Warehouse; Santa Fe Warehouse Company, a corporation; Lisle L. Smith, operating under the fictitious name of Smith Bros. Truck Co.; E. S. Stanley, operating under the fictitious name of Star Truck & Warehouse Co.; Taylor Milling Company; Tenth Street Warehouse Company, a corporation; Union Terminal Warehouse, a corporation; Western Warehouse & Transfer Company, a corporation; Westland Warehouses Incorporated, a corporation; E. J. Evans, operating under the fictitious name of West Los Angeles Milling Company; Wilmington Transfer & Storage Company, a corporation; City and Harbor Warehouse Ltd., a corporation; A. E. Drew, operating under the fictitious name of Harbor Warehouse; City Transfer and Storage Company, a corporation; L. H. Zimmerman-A. F. Zimmerman, co-partners operating under the fictitious name of Zimmerman Brothers; Seafoam Warehouse Company, a corporation; Crescent Warehouse Company, Ltd., a corporation; Hollywood Storage Company, a corporation; engaged in operating public utility warehouses in the Cities of Los Angeles, Vernon, San Pedro, Wilmington, Hollywood and/or Long Beach, California.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION AND ORDER

Following the Commission's Decision No. 25024 of August 1, 1932, wherein it was ordered that warehousemen in Los Angeles and vicinity who had deviated from their filed tariffs "forthwith diligently and in good faith proceed to collect and collect the amount of all such undercharges * * * ", respondent American Warehouse informed the Commission that to the best of its knowledge and belief it had not deviated from its filed tariff in any instances other

than those involved in Cases 3398 and 3467.¹

Upon further hearing had for the purpose of developing the extent to which respondents had complied with the order in Decision 25024, it developed that in making its audit American Warehouse used a tariff which it appeared was not lawfully in effect during a portion of the period involved in this proceeding. This respondent was thereupon directed to make a further check to determine whether or not there were any additional instances in which its filed tariff had been violated.² It subsequently reported undercharges aggregating approximately \$150.00.

Respondent now alleges that it never authorized the filing of the tariff which the Commission's files show was in effect during a portion of the period involved³ and that until the copy was offered at the hearing it in fact did not know that such a tariff was in existence. For these reasons it asks that it be relieved from collecting charges in accordance therewith.

The title page of the tariff shows that it was issued for respondent American Warehouse by its agent. It develops however that this agent at the time reissued numerous warehouse tariffs under instructions from the Los Angeles Warehousemen's Association, during which time the tariff in question was apparently filed without specific authority but under the presumption that respondent desired to have its tariff reissued.⁴ The agent at the time did not

¹ A. W. Adams vs. D. W. Griggs (American Warehouse) and A. W. Adams et al. vs. same, Decision 25703 of March 7, 1933.

² Decision 26181 of July 24, 1933.

³ Warehouse Tariff No. 3, C.R.C. No. 3, filed December 4, 1920, to become effective December 6, 1920.

⁴ Respondent was formerly a member of the Los Angeles Warehousemen's Association but withdrew from the Association shortly before the tariff in question was issued.

hold a power of attorney authorizing it to issue tariffs for respondent. Under the circumstances collection of the undercharges here involved should be waived. Therefore, good cause appearing,

IT IS HEREBY ORDERED that respondent D. W. Griggs, operating under the fictitious name of American Warehouse, be and he is hereby authorized and directed to waive collection of the undercharges involved in this proceeding which resulted from his failure to apply the rates shown in his Warehouse Tariff No. 3, C.R.C. No. 3.

IT IS HEREBY FURTHER ORDERED that in all other respects Decision No. 26181 of July 24, 1933, in the above entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this 8th day of January, 1934.

C. J. Leary
Leon Whitely
M. J. Con
M. B. Harris
A. H. ...
Commissioners.