

Decision No. 26828

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATED CARRIERS, INC.,
a corporation,
Complainant,

vs.

Case No. 3613.

LARRY PARSONS and LARRY PARSONS
doing business under the fictitious
name and style of SANTA CRUZ EXPRESS
COMPANY, FIRST DOE, SECOND DOE,
THIRD DOE, FOURTH DOE, FIFTH DOE,
FIRST DOE CORPORATION, SECOND DOE
CORPORATION, THIRD DOE CORPORATION,
FOURTH DOE CORPORATION, FIFTH DOE
CORPORATION,

Defendants.

ORIGINAL

Reginald L. Vaughan and Scott Elder,
by Reginald L. Vaughan, for complainant.

Larry Parsons in propria persona.

James M. Bussing in propria persona.

Edward M. Berolski for Defendant Larry Parsons.

BY THE COMMISSION:

O P I N I O N

By complaint filed June 29, 1933, complainant charges Larry Parsons and Larry Parsons doing business under the fictitious name and style of Santa Cruz Express Company, and others, with unlawful common carrier operations by auto truck between San Francisco and Santa Cruz, the East Bay Cities, and the vicinity of Santa Cruz and intermediate points.

Public hearings were held before Examiner Johnson at Santa Cruz on December 22, 1933, and at San Francisco on January 22, 1934, on which latter date the case was submitted. The facts as developed at the hearing may be summarized briefly as follows:

Witnesses testified and Larry Parsons admitted the illegal operations charged as of the date of the complaint, but Larry Parsons also testified, and it is uncontradicted, that he ceased operations as complained of within 10 days after the service upon him of the complaint in this case. James Bussing, another defendant named herein, admitted operating such service from the time that Larry Parsons quit the same July 16, 1933, until the latter part of November, 1933, when he sold the business and the physical equipment to an Oakland resident not named in the complaint. Thereupon Bussing's name was substituted for First Doe. Motion was made by the attorney for complainant to include such new party, H. G. Spotswood, but no service having been made upon him to the knowledge of the Commission, that new party would have to be excluded from any order made in this case.

The facts as adduced at both hearings were uncontradicted but counsel for the defendant argued that since Larry Parsons had quit operations prior to the time given him to answer the complaint in this case, he should not be stigmatized with a cease and desist order. Parsons and his attorney both contended that he was not now engaged in any transportation operations, but that he might some time in the future engage in such business and appear before the Commission, and on that account did not desire to have any blemish on his record. But the fact remains that he was engaged in the illegal operations at the time of the filing of this complaint and the complainant herein insisting upon the legal right to have an order issued barring him from any such operation in the future, the facts leave no other alternative than to issue such order. Such is in accordance with previous rulings of this Commission. (The River Lines vs. Armstrong, Case 3389, Decision No. 25636.)

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 \$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 not exceeding \$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.

ORDER

IT IS HEREBY FOUND that Larry Parsons and Larry Parsons doing business under the fictitious name and style of Santa Cruz Express Company, and James Bussing have been operating a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Transportation Act (Chapter 213, Statutes of 1917, as amended), with common carrier status between Santa Cruz and vicinity on the one hand, and San Francisco and East Bay Cities on the other hand, and intermediate points, 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 Larry Parsons and Larry Parsons

doing business under the fictitious name and style of Santa Cruz Express Company, and James Bussing 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 certified copy of this decision to be personally served upon Larry Parsons and Larry Parsons doing business under the fictitious name and style of Santa Cruz Express Company, and James Bussing; that he cause certified copies thereof to be mailed to the District Attorneys of Santa Cruz, San Mateo, San Francisco, Alameda and Santa Clara 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 defendants.

Dated at San Francisco, California, this 26th day of February, 1934.

Cl Seaver
Leon Whitely
M J Lee
M B Lewis
Walter Brown
Commissioners.