

Decision No. 27020

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC.,
a corporation,

Complainant,

vs.

T. FEDERIGHI and T. FEDERIGHI
doing business under the
fictitious name and style of
SAN GREGORIO FARMERS ASSOCIATION,
First Doe, Second Doe, Third Doe,
Fourth Doe, Fifth Doe, First Doe
Corporation, Second Doe Corpore-
tion, Third Doe Corporation,
Fourth Doe Corporation, Fifth
Doe Corporation,

Defendants.

Case No. 3701.

ORIGINAL

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

J. E. McCurdy and F. E. Hoffman
for defendant.

BY THE COMMISSION:

O P I N I O N

By complaint filed October 7, 1933, complainant charges defendant T. Federighi and T. Federighi doing business under the fictitious name and style of San Gregorio Farmers Association, with unlawful common carrier operations by auto truck between San Gregorio and San Francisco and intermediate points.

Public hearings were had before Examiner Johnson on March 23, 24, 26 and 27, 1934, on which latter date the case was submitted on briefs, but no brief was filed by this defendant.

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

For a period of at least 20 months the defendant had been carrying on a common carrier truck operation between San Gregorio and surrounding farms, and intermediate points, to San Francisco.

After advice by counsel, the defendant secured a large number of blank contracts which he presented to his customers and secured signatures thereon. These contracts were not drawn for any particular shipper but were simply carried by the defendant to various shippers and presented with the object, as he stated, of being protected from interference. Such contracts have been heretofore held by the Commission to be a subterfuge. There is no question but that the defendant was in the business of hauling for any shipper who would sign his so-called contract.

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. vs. Bray, 37 C.R.C.224; re Bell & Hays, 37 C.R.C. 407; Wermuth vs. Stamper, 36 C.R.C. 458; Pioneer Express Co. vs. Keller, 35 C.R.C. 571.

It should also be noted that under Sec.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 \$1,000.00, 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 that T. Federighi and T. Federighi, doing business under the fictitious name and style of San Gregorio Draying Association, is operating a transportation company as defined in Sec. 1, Subdivision (c) of the Auto Truck Transportation Act (Chap. 213, Stats. 1917, as amended), with common carrier status between San Gregorio and adjacent farms, and San Francisco 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 T. Federighi and T. Federighi, doing business under the fictitious name and style of San Gregorio Draying Association, 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 T. Federighi, that he cause certified copies thereof to be mailed to the District Attorneys of San Mateo 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 the defendant.

Dated at San Francisco, California, this 7th day
of May, 1934.

C. C. Lantry
Leon Whidell
M. J. Linn
M. B. Linn
W. H. Linn
Commissioners.