

Decision No. 27087

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,
Complainant,

v.

DALE C. RAMSEY, FIRST DOE, SECOND DOE,
THIRD DOE, FOURTH DOE, FIFTH DOE,
SIXTH DOE, SEVENTH DOE, EIGHTH DOE,
NINTH DOE, TENTH DOE, FIRST DOE CORPORATION,
SECOND DOE CORPORATION, THIRD DOE CORPORATION,
FOURTH DOE CORPORATION, FIFTE DOE CORPORATION.

Case No. 3590

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Reginald L. Vaughan, for Complainant.
F. W. Turcotte and Sanborn & Roehl, by E. N. Sanborn
and Clair McLeod, for Defendant Dale C. Ramsey.
Edward Stern, for Railway Express Agency, Inc., an
intervenor on behalf of the Complainant.
H. J. Bischoff, for Borderland Express, Coast Truck
Line, and Motor Service Express, Interveners on
behalf of the Complainant.

BY THE COMMISSION -

OPINION

By complaint filed on May 25, 1933, complainant charges Dale C. Ramsey et al. with unlawful common carrier operations by auto truck between El Centro and Los Angeles and Los Angeles Harbor and intermediate points, and between Los Angeles and Oakland.

Public hearings were had before Examiner Handford on August 1st and 18, 1933, on which latter date the case was submitted.

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

Defendant Dale C. Ramsey admits the operation of two service stations, one at El Centro and one at Los Angeles, and each bearing the name Safety Corner Service Station. Each is a rendezvous for truckmen who patronize the service stations. Defendant Ramsey also admits operating under the name Imperial Forwarding Company

and also that he is in contact with truckmen; that he accepts orders from them from shippers; that he turns these orders over to the truckers to perform the service and that for this service he charges 10% of the volume of the rate plus 2½% for cargo insurance. He denies that he solicits business for any of the carriers, fixes a rate or has any contract or understanding with them other than he is to perform the service mentioned and receives and disburses moneys due for the services they have performed for shippers. He does not own any trucks or drive any, or solicit business, according to his testimony. The transportation conducted by Imperial Forwarding Company is between points in Imperial valley and Los Angeles and Los Angeles harbor.

An additional defendant is Valley Forwarding Company, in which Ramsey denies any interest. It appears from the record that his brother in law, J. R. May, of Oakland, occupies the same relationship to Valley Forwarding Company as does Ramsey with the Imperial Forwarding Company for business dispatched between Los Angeles and Oakland and intermediate points. Neither the Imperial Forwarding Company nor the Valley Forwarding Company is a corporation or partnership, but are merely names used for business purposes.

Complainant herein produced nineteen (19) witnesses who testified to a large and constant volume of transportation between Imperial valley points and Los Angeles (including those to Los Angeles harbor), and all this transportation by all these shippers was made by contact with the Safety Corner Service Stations, admittedly owned by Ramsey, and, in most cases, the compensation for the service was billed by Ramsey as agent for the Imperial Forwarding Company, the amounts collected by him and the amount for deductions, alluded to, turned over to the truckmen less, of course, whatever they owed the service stations. It is unnecessary to cover in detail the dealings of each witness with various truckmen who operated between the terminals which are

provided by Ramsey. The freight moved by truck over the public highways consistently between the same points and the truckers used the same rendezvous at either terminal for the acquisition of other business. In all respects it is no different from any other transportation business conducted between fixed termini and over a regular route and with terminal stations at each end for the housing of the vehicles of the truckers. It is no different in substance and largely in detail with numerous other similarly conducted operations which have been before this Commission and have been found to be illegal and those in control or management thereof have been required to cease and desist such service.

The instant case presents different features because of the defense urged in behalf of defendants. Originally, only Ramsey was served as a defendant but subsequently Imperial Forwarding Company and Valley Forwarding Company were identified and served as defendants. J. R. May was named as the active agent of the Valley Forwarding Company and the record is satisfying that he used this business name as effectively for his personal interests as did Ramsey the name of Imperial Forwarding Company. Shipments under this name were also made by Ramsey. Exhibits filed show that the service performed was not only billed by Ramsey and May as "agents" but that many of the documents designated the service as Ramsey Truck Service. The only difference, perhaps, is the quantity of business transacted. The testimony of Ramsey and May is that they did no more than provide trucking accommodations for the drivers at their service stations and, in addition, performed bookkeeping, telephone and other services for the drivers. It is plain, however, that shippers were informed as to their ability to get truck service through these stations and to further emphasize this is the fact that after Ramsey had for a year operated his plan continuously, his brother in law adopted the same title "Safety Corner Service Station" for his business at Oakland and adopted the same method ^{of} operation. Each of the

three places became known as a point of contact with so-called "wild-cat" operators. It appears perfectly obvious from the testimony that these rendezvous were maintained for the benefit of this sort of transportation service and that Ramsey and May knew that by this method they could not only acquire the maintenance business of the truckers but could also receive compensation for alleged services which they now hold to be not transportation in character. The explanation of the character of business, as made by defendant Ramsey, is as follows:

"As explained, I am in the service station business. We maintain a service station in El Centro and one in Los Angeles and cater particularly to truck operators. We handle the service stations in such a manner that would make it convenient for them to trade there. They have established our location as headquarters and our telephone number is given to their clientele. People call up and ask for 'John Jones, is he there?' 'No.' 'When will he be back?' 'I should judge in the next two or three days.' 'Do you know if he is there, if he wants to take a load of freight to Imperial valley?' Or 'take a load of freight to Oakland,' or to almost any point in the State of California. And it is my duty to contact the truck man for the parties who are calling. I go out and say such and such a party is going to load freight for such a destination, 'Do you want to take it?' If so, they go out and get the freight. If they do not want it they do not go. I have no control over them whatsoever, as far as sending them here, there, or elsewhere or guiding their efforts in any capacity."

This explanation is intended to differentiate the interest of defendant Ramsey from any proprietary interest in either the trucks or the service to be performed, on the theory that he has not at any time owned, controlled, operated or managed any auto truck used in the business of transportation of property or as a common carrier of property for compensation. The conclusion to be gained by disinterested examination of the record, however, is that the defense is fallacious for the reason that Ramsey did control the truckers as he supplied gasoline and other things necessary for the operation of the trucks on credit and deducted the sums due him from the collections by him as agent for the trucker. The evidence also

discloses that certain truckers alone participated in the benefit of this arrangement. It amounted to financially sustaining the operations. There appears to have been verbal understanding that whenever their services were desired, their shippers could contact them at his places, leave the orders which, in turn, would be passed to the trucker who performed the service. The innocent relationship of Ramsey to the truckers, as contended by defense, appears to have been a mere sham and to all intents and purposes Ramsey did actually control the operation of the trucks as effectively as if he directly employed the truckmen to perform the service. A fair examination of defendant Ramsey's testimony fully justifies this conclusion.

J. R. May is not a defendant in this proceeding, except insofar as he may be the responsible operator of Valley Forwarding Company. While both May and Ramsey stress the fact that they had nothing to do with the forwarding company, except perform clerical services and furnish housing for the trucks and credit to the truckmen, they did perform every act and service except solicitation and driving that could be performed to effectively operate a transportation system.

Further evidence of the mutuality of interest between the two forwarding companies and defendants Ramsey and May is the fact that the business was conducted both on the movements between Imperial valley and Los Angeles and Los Angeles and Oakland under an insurance contract executed in the name of Ramsey and which, by rider attached, covered all the movements of both operations, for which each defendant collected $2\frac{1}{2}\%$ to pay the premiums. To suggest that such arrangements could exist without collusion between the two operations or without mutual understanding between the operators, is to read the entire record without recognizing the palpable fiction and evasion shown by defendants in their testimony. The method invented by Ramsey is a mere shadow, as the substance is actually common carrier truck transportation.

The record justifies a finding that Ramsey, Safety Corner Service Stations, Imperial Forwarding Company and Valley Forwarding Company are engaged in illicit transportation of property between El Centro and Los Angeles and Los Angeles harbor and intermediate points and between Los Angeles and Oakland and intermediate points, without having first obtained legal authority, either as a transportation corporation or forwarder of freight, as required by law.

J. R. May is not a defendant herein personally, but has used the name of Valley Forwarding Company in his business. For this reason the order is not directed against him as an individual.

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 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.

O R D E R

IT IS HEREBY FOUND THAT Dale C. Ramsey, operating as Imperial Forwarding Company, Valley Forwarding Company or Safety Corner Service Stations, and Dale C. Ramsey, an individual, are operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Act (Chapter 213, Statutes 1917, as amended), with common carrier status between El Centro and Los Angeles and Los Angeles harbor and intermediate points, and between Los Angeles and Oakland 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 Dale C. Ramsey, operating as Imperial Forwarding Company, Valley Forwarding Company or Safety Corner Service Stations, and Dale C. Ramsey, an individual, 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 said defendants; that he cause certified copies thereof to be mailed to the District Attorneys of Imperial, Riverside, San Bernardino, Los Angeles and Alameda 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.

IT IS HEREBY FURTHER ORDERED that in all other respects the complaint be dismissed.

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

Dated at San Francisco, California, this 21st day of May, 1934.

C. L. ...
From ...
M. B. ...
W. B. ...
COMMISSIONERS.