

Decision No. 27287

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC.,)
 Complainant,)
-vs-) Case No. 3665
GEORGE LOMHOLDT, et al.,)
 Defendants.)

ORIGINAL

R. L. Vaughan and Scott Elder for Complainant,
Horace M. Street for George A. Lomboldt, Defendant.

BY THE COMMISSION:

O P I N I O N

By complaint filed August 16, 1935, complainant charges George A. Lomboldt and H. E. Lomboldt with unlawful common carrier operations by auto truck between Los Angeles and Brawley, Imperial and El Centro, serving also as intermediate points various cities, towns and communities in Los Angeles, San Bernardino and Imperial counties en route.

Public hearings were had before Examiner Johnson at Los Angeles and El Centro, the case was finally submitted on briefs after the final hearing at Los Angeles had developed no evidence or defense upon the part of the defendant herein.

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

The office manager for the M&A Produce Company testified that the defendants made shipments for 16 different growers in the Imperial Valley. The office manager of Maggio Bros., Inc. corroborated this. The treasurer of the Consolidated Produce Company named six producers for whom defendants hauled from the Imperial Valley. Another Los Angeles dealer named three producers for whom defendants shipped. One broker delivered 190 shipments made for six different producers, another named 21 growers in the Imperial Valley who used the defendant's service.

All of this testimony was further strengthened by the testimony at El Centro of dealers, shippers, packers, and producers who used the service of the defendant as a public carrier service. At least 25 shippers engaged defendant's services and paid transportation therefor. No defense was made either by way of testimony, argument or brief only by the answer filed herein.

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. 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, 34 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 Transp. Act (Stats. 1917, Chap. 215, 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. 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 George A. Lomholdt and H.E. Lomholdt are operating as a transportation company as defined in Section 1, subdivision (c) of the Auto Truck Transportation Act, Chapter 215, as amended, with common carrier status between Los Angeles and Brawley, Imperial and El Centro, serving also as intermediate points various cities, towns and communities in Los Angeles, San Bernardino, Riverside and Imperial counties en route, without first having obtained a certificate of public convenience and necessity for such operations herein.

Based upon the finding herein and the opinion,

IT IS HEREBY ORDERED that George A. Lomholdt and H.E. Lomholdt shall cease and desist directly or indirectly or by

any subterfuge or device from continuing such operation.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon George Lomholdt and E. E. Lomholdt, upon the District Attorneys of Los Angeles, Imperial, San Bernardino, Riverside and Imperial counties, also to the Board of Public Utilities & Transportation of Los Angeles and to the Department of Public Works, Division of Highways, Sacramento, California.

Dated at San Francisco, California, this 20th day of August, 1934.

John A. White

W. A. Carr

W. B. Lewis

W. H. Brown

Commissioners.