

Decision No. 27478

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATED CARRIERS, INC.,
a corporation,

Complainant,

vs.

Case No. 3689.

SAM RHINEHART and SAM RHINEHART
doing business under the fictitious
name and style of Sam's Transfer,
and Sam Rhinehart doing business
under the name and style of Safety
First Transfer, Inc., 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, for complainant.

Shipper, Good and Benard, by Clifford D. Good and
E. G. Benard, for defendants.

BY THE COMMISSION:

O P I N I O N

Complainant charges defendant Sam Rhinehart, also
doing business under the fictitious name of Sam's Transfer, with
unlawful common carrier truck operations between San Francisco and
Los Angeles and contiguous points, and points intermediate thereto.

Public hearings were held at San Francisco April 9 and
June 16, 1934, and at Turlock August 14, 1934, by Examiners
Handford and Geary. Testimony was given by some 36 witnesses and
18 exhibits were filed.

This proceeding was instituted September 19, 1933, and
the parties defendant made a general denial of all of the issues.

The testimony presented at the final hearing clearly disclosed that shortly after the inauguration of this complaint, defendant sold his trucks to individual truck drivers and himself retired from all active transportation services. There was recently organized a corporation denominated as the Safety First Transfer, Inc., in which this defendant is neither a stockholder nor otherwise interested. The testimony shows that the new corporation, through methods not clearly defined, is apparently endeavoring to move the tonnage formerly handled by the Rhinehart organizations. There is an abundance of proof from shipper witnesses subpoenaed by complainants to the effect that prior to the retirement of this defendant some time in October, 1933, he did conduct a regular transportation service for the public, handling both northbound and southbound tonnage. In view of the fact that defendant is no longer engaged as a truck transportation company, it would be idle to review in detail the testimony and exhibits.

Our docket shows that recently the same complainants instituted a new proceeding (Case No.3886) against the Safety First Transfer Company. The facts of record lead to the conclusion that defendant's operations as complained of were conducted as a common carrier for compensation between San Francisco-Los Angeles and points intermediate thereto.

A cease and desist order should issue even though defendant Rhinehart did cease operation before the date of hearing. (River Lines. v. Armstrong, C.R.C. 38, 462; Regulated Carriers v. Parsons, Decision No.26828, dated October 26, 1933, on Case No.3613; River Lines v. Yamasaki, Decision No.26999, dated April 30, 1934, on Case No.3765).

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 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; Yermuth 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. 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

Public hearings having been had in the above entitled matter,

IT IS HEREBY FOUND THAT Sam Rhinehart is operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Transportation Act (Chapter 213, Statutes 1917, as amended), with common carrier status between San Francisco and Los Angeles and contiguous points, and points intermediate thereto, 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 Sam Rhinehart 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 Sam Rhinehart; that he cause certified

copies thereof to be mailed to the District Attorneys of San Francisco, San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kern, Ventura and Los Angeles 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 defendant.

Dated at San Francisco, California, this 29th day of October, 1934.

Leon Whittell

M. H. Lee

M. B. Harris

W. H. ...

Frank R. ...

COMMISSIONERS.