

ORIGINAL

Decision No. 27677

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATED CARRIERS, INC., a corporation,  
Complainant,

vs.

C. L. BUCK, FRED DEREMO, CLAY (WHITEY)  
MORRIS, CHARLES INKS, and C. L. BUCK, FRED  
DEREMO, CLAY (WHITEY) MORRIS and CHARLES  
INKS doing business under the fictitious  
name and style of Buck Forwarding Company  
and/or D & M Trucking 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.

Case No. 3379.

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

C. L. Buck, in propria persona.

CARR, Commissioner.

#### O P I N I O N

By complaint filed on July 31, 1964, complainant charges C. L. Buck, Fred Deremo, Clay (Whitey) Morris and Charles Inks, individually, and the same parties as doing business under the fictitious name of Buck Forwarding Company or D & M Trucking Company, with unlawful common carrier operations by auto truck between Oakland, Berkeley, Alameda, San Leandro, Richmond and San Francisco on the one hand and Stockton, Lodi, Sacramento and intermediate points on the other.

Public hearings were had on January 3rd, on which date the case was submitted.

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

By Decision No. 26826, of date February 26, 1934, in Case No. 3337, C. L. Buck was ordered to cease and desist operations between Coalinga, Bakersfield and Clovis and San Francisco and Ventura. Following service of this order Buck, according to his testimony, did discontinue these operations but immediately instituted similar operations between Oakland and certain East Bay Cities and Sacramento, Stockton and Lodi, operating under the fictitious name of Buck Forwarding Company. These operations he continued until early in July, when the business was taken over by the defendant Fred Deremo, sometimes known as G. F. Deremo and G. Fred Deremo, who continued the operations but under the fictitious name of D & M Trucking Company. Deremo, who also testified as a witness, owned a couple of trucks and by means of these and sometimes through independent truckers carried on quite an extensive trucking business between Oakland, Berkeley, Alameda and San Leandro on the one hand and Stockton, Lodi and Sacramento on the other. Trips were run almost daily and a substantial volume of freight was handled. It is not even claimed that there was a special contract or arrangement for the transportation. He got such business as he could. There can be no question whatsoever that Deremo was operating as a transportation company between the points specified.

Under the record it must be concluded that the defendant Buck had discontinued business prior to the date the complaint was filed. There is nothing in the evidence to support a cease and desist order as against any of the defendants named except Deremo. A cease and desist order should issue as against him.

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, 35 C.R.C. 571.

It should also be noted that under Section 3 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.

#### O R D E R

A public hearing having been had in the above entitled matter,

IT IS HEREBY FOUND that FRED DEREMO, sometimes known as G. F. Deremo and G. Fred Deremo, 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 Oakland, Berkeley, Alameda and San

Leandro on the one hand and Stockton, Lodi and Sacramento on the other, 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 Fred Deremo, sometimes known as G. F. Deremo and G. Fred Deremo, shall cease and desist directly or indirectly or by any subterfuge or device from continuing such operations, either under his own name or under the fictitious name of D & M Trucking Company.

IT IS HEREBY FURTHER ORDERED that the complaint as against the named defendants other than Deremo be and the same is hereby dismissed.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon Fred Deremo, sometimes known as G. F. Deremo and G. Fred Deremo, that he cause certified copies thereof to be mailed to the District Attorneys of Alameda, San Joaquin, Sacramento and Contra Costa 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 14<sup>th</sup> day of January, 1935.

Leon Whitely  
M. J. Carr  
M. B. ...  
...  
...  
Commissioners.