

Decision No. 27846

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC.,)

Complainant,)

-vs-)

K. J. SACKETT and K. J. SACKETT,
doing business under the fictitious
name and style of Atlas Shipping
Company and/or Atlas Shipping Agency,
First to Fifth Doe, inclusive, and
First to Fifth Doe Corporation,
inclusive,)

Defendants.)
-----)

Case No. 3812

ORIGINAL

R. L. Vaughan and Scott Elder, by R. L. Vaughan,
for Complainant,

Edward Stern, Intervenor on behalf of the Com-
plainant,

C.P. VonHerzen for Defendant, K. J. Sackett.

BY THE COMMISSION:

O P I N I O N

By complaint filed on March 29, 1934, Complainant charges defendants, K. J. Sackett and K. J. Sackett, doing business under the fictitious name and style of Atlas Shipping Company and/or Atlas Shipping Agency, with unlawful common carrier operations by auto truck between San Francisco and Los Angeles.

Public hearings were had before Examiner Johnson at Los Angeles, and the matter was submitted on briefs. No brief was ever filed on behalf of the defendants herein. The facts as developed at the hearing may be summarized as follows:

The individual defendants are brothers and are engaged in common carrier operations between the two largest cities in the state and environs. The complaint was amended, after proof, to substitute J. P. Sackett and Howard Sackett in place of First Doe and Second Doe. One brother would transfer the ownership of the transportation company to another brother, but at various times the three brothers were and are interested in the transportation system, known as the Atlas Shipping Agency. The defendants attempted to show that they were operating as contract carriers, but failed in their proof thereof. From the public witnesses who testified and from the testimony of the defendants themselves, there is no doubt that they were carrying on common carrier operations in violation of the Public Utilities Act.

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

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon K. J. Sackett and K. J. Sackett, doing business under the fictitious name and style of Atlas Shipping Company and/or Atlas Shipping Agency, that he cause certified copies to be mailed to the District Attorney of the City and County of San Francisco, to the district attorneys of San Mateo, Santa Clara, Monterey, San Benito, San Luis Obispo, Santa Barbara, Ventura and Los Angeles counties, and to the Department of Public Works, Division of Highways, Sacramento, and to the Board of Public Utilities & Transportation of Los Angeles.

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

Dated at San Francisco, California, this 25th day of March, 1935.

Leon A. White
M. J. Carr
W. B. Loring
Arthur J. Brown
Frank K. Hahn
Commissioners.

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 Transportation Act (Stats. 1917, Chap. 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.

O R D E R

IT IS HEREBY FOUND that K. J. Sackett and K. J. Sackett, doing business under the fictitious name and style of Atlas Shipping Company, and/or Atlas Shipping Agency, is operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Transportation Act, Chap. 213, as amended, with common carrier status between San Francisco and Los Angeles, 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 K. J. Sackett and K. J. Sackett, doing business under the fictitious name and style of Atlas Shipping Company and/or Atlas Shipping Agency, shall cease and desist directly or indirectly or by any subterfuge or device from continuing such operation.