

Decision No. 27012

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC.,
(a Corporation),

Complainant,

-vs-

BESSIE KEATING and BESSIE KEATING,
doing business under the fictitious
name and style of Reliable Traffic
Service Company, First to Fifth
Doe, inclusive, and First to Fifth
Doe Corporation, inclusive,

Defendants.

Case No. 3839.

R. L. Vaughan and Scott Elder for Complainant

Toland C. McCettigan for Defendant

BY THE COMMISSION:

O P I N I O N

By complaint filed on May 19, 1934, complainant charges Bessie Keating and Bessie Keating, doing business under the fictitious name and style of Reliable Traffic Service Company, with unlawful common carrier operations by auto truck between San Francisco, Oakland, Berkeley, Emeryville, Richmond, Alameda and San Leandro on the one hand and Los Angeles and contiguous points and intermediate points, on the other.

Public hearings were had before Examiner Johnson on February 13 and 16, 1935, and oral argument was held before the Commission en banc on March the 4th, 1935, on which latter date the case was submitted.

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

Oral and documentary evidence showed that defendant was operating a forwarding company under the name of Reliable Traffic Service Company; that she solicited business through agents and by advertisement; that the forwarding company consolidated shipments and hired trucks to transport goods to and from San Francisco and Los Angeles, and certain contiguous points, and that to all intents and purposes the forwarding company was actually engaged in the transportation business. Mrs. Keating handled the insurance, hired the drivers, directed the consolidation of shipments and maintained a regular service between the two chief cities of the state. No service was maintained for the Alameda county points charged in the complaint.

The defendant is controlling, operating and managing auto trucks used in the business of transporting property as a common carrier between San Francisco and Los Angeles. The issue was joined as to the question whether her operations were those of a transportation company within the definition of the statute. Even though the evidence showed that the defendant did not actually own any line haul trucks used in the transportation business, yet she exercised such management and control over the line haul trucks owned by others as to bring her operations clearly within the purview of the Auto Stage and Truck Transportation Act; and there is no doubt that her operations are subject to this Commission's jurisdiction.

The Commission has repeatedly held that operations similar to this defendant's are within the jurisdiction of the Commission. The best known of these decisions is perhaps

the case of Motor Freight Terminal Co. v. Moye, 37 C. R. C. 857. The same operations over the same territory were carried on by the defendant Moye in 1932 that were carried on by this defendant, and counsel for defendant herein did not present or argue any distinction between the two operations, but on the contrary argued that the Commission should overrule its former rulings with reference to such forwarding companies. A more recent decision to the same effect is that of Regulated Carriers vs. Universal Forwarders, Ltd., Decision No. 26236 in Case No. 3544. This decision was upheld by the California Supreme Court on October 23, 1933, in Universal Forwarders vs. Railroad Commission, L. A. No. 14467. There is no question as to the fact. The defendant is operating as a common carrier without the required certificate. cc A cease and desist order should issue.

O R D E R

IT IS HEREBY FOUND that Bessie Keating, doing business under the fictitious name and style of Reliable Traffic Service Company, is operating as a transportation company, as defined in Section 1(c) of the Auto Truck Transportation Act, Statutes 1917, Chapter 213, as amended, with common carrier status, between fixed termini and over regular routes and public highways, between San Francisco on the one hand, and Los Angeles, Riverside, Pasadena and Burbank on the other hand, without first having obtained a certificate of public convenience and necessity or without having any prior operative right for any or all of such operations.

Based upon the Opinion and the findings herein,

IT IS HEREBY ORDERED that the following designated transportation company, to-wit: Bessie Keating, doing business under the fictitious name and style of Reliable Traffic Service Company, shall cease and desist, directly or indirectly, under the above fictitious name and style or otherwise, or by any subterfuge or device from continuing any or all of such operations, hereinabove set forth, and more specifically

shall cease and desist, directly or indirectly, under the above fictitious name and style or otherwise, or by any subterfuge or device from operating as a common carrier between any or all of the following points, to-wit: San Francisco on the one hand, and any or all of the following points, to-wit: Los Angeles, Everside, Pasadena and Burbank on the other hand, and shall similarly cease and desist from operating as a common carrier between any two or more of the points hereinabove specified and found as being places between which the said Bessie Keating, doing business under the fictitious name and style of Reliable Traffic Service Company, is now operating, unless and until a certificate of public convenience and necessity shall have been obtained from this Commission.

The Secretary of the Commission is directed to cause personal service of a certified copy of this decision to be made upon Bessie Keating, and upon Bessie Keating, doing business under the fictitious name and style of Reliable Traffic Service Company.

The order shall become effective twenty (20) days after the date of personal service.

Dated at San Francisco, California, this 6th day of May 1935.

Leon Cavhull
W. H. Carr
M. B. Harris
Walter Brown
Frank P. Brown
Commissioners