

Decision No. 28289

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,
Complainant,

vs.

J. REESE, W. G. McCARTHY and J. REESE
and W. G. McCARTHY doing business under
the fictitious name and style of Security
Transit Company, First Doe, Second Doe,
Third Doe, Fourth Doe, Fifth Doe, First
Doe Corporation, Second Doe Corporation,
Third Doe Corporation, Fourth Doe Cor-
poration, Fifth Doe Corporation,

Defendants.

Case No. 3548.

R. L. Vaughan for complainants.

J. E. Reese for defendants.

BY THE COMMISSION:

O P I N I O N

This case came on for hearing before Examiner Geary at San Francisco and was duly submitted.

The complainant charges that the defendants are operating auto trucks used in the business of transporting property as a common carrier for compensation over the public highways of the State of California between San Francisco, Oakland, Berkeley, Alameda on the one hand, and Los Angeles and contiguous territory and intermediate points on the other, and that such operations are unauthorized, illegal and in violation of Chapter 213 of the Statutes of 1917. An order is sought from this Commission directing defendants to cease and desist from the alleged violations of the law.

The facts developed at the hearing are as follows:

Complainant called to the witness stand the chief defendant

ORIGINAL

J. E. Roese (erroneously named in the complaint as J. Reese) and seven shipper witnesses. Defendant appeared without counsel, produced no witnesses and entered no defense except such as developed during his examination while testifying under a subpoena as a complainant's witness. Of the seven shipper witnesses, two testified they had never heard of the defendants and five showed by their testimony that they were not at the present time using defendants' claimed services. The evidence as given by defendant Roese showed that a partnership existed from December 28, 1933, to December 7, 1934, between Roese and W. G. McCarthy, and that business was done under the fictitious name of Security Transit Company; that after the dissolution of the partnership Roese continued handling some business as the West Coast Transit, all moving southbound. What hauling services are now rendered are devoted, it is claimed, to a tonnage furnished by the Colgate-Palm Olive-Peet Corporation and by Borden Sales Company, and moved principally in truckload lots.

In view of this uncertain record and the failure of complainant to present sustaining proof of a common carrier service as contemplated by the statute, it appears that this proceeding should be dismissed.

O R D E R

The above numbered complaint having been duly heard and submitted for decision and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this 28th day of October 1935.

COMMISSIONERS.