

Decision No. 28860

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Investigation,)
on the Commission's own motion,)
into the operations, rates, charges,)
contracts, and practices, or any)
thereof, of ALBERT VISSER, doing)
business as Oceanside Transfer Co.)

Case No. 4212.

Albert Visser, in pro. per.

ORIGINAL

WAKEFIELD, COMMISSIONER:

O P I N I O N

After receiving a complaint that Albert Visser had transported used household furniture by motor vehicle at a rate less than the minimum rate prescribed by Decision No. 28810 in Case 4086, the Commission instituted the above entitled proceeding to investigate Visser's operations, rates, charges, contracts, and practices.

A public hearing was had on May 25, 1937, and the matter was at that time submitted. The respondent, who holds Radial Highway Common Carrier Permit No. 38-437 and City Carrier Permit No. 38-429 appeared personally.

Inspector W. P. Jackson, called as a witness for the Commission, testified that on March 15th he saw Visser with a helper transport used uncrated household furniture in a van over the public highways within the City and County of San Francisco, and that the entire time consumed was five hours and ten minutes.

At the minimum rate of \$3.75 per hour for such services, prescribed by the above decision, Visser should have charged and collected not less than \$19.37. He had also made a prior delivery of nine containers, the minimum charge for which is prescribed in Item 810, Section 3 of said decision. The respondent admitted to Inspector Jackson that he had charged and collected \$15.00 for the entire service, including the delivery of the containers. Testifying in his own defense, he admitted the entire violation, and stated that he had a copy of the rate order and was aware of the correct rates.

I believe that there is no need for a penalty suit in this matter, but consider that the suspension of respondent's Radial Highway Common Carrier Permit No. 38-437 and his City Carrier Permit No. 38-429 is required.

An order of this Commission directing that an operation be discontinued is in its effect not unlike an injunction 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. Section 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 14 of the Highway Carriers' Act (Chapter 223), and Section 13 of the City Carriers' Act (Chapter 312), a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$500.00, or by imprisonment in the county jail not

exceeding three months, or by both such fine and imprisonment.

O R D E R

IT IS HEREBY ORDERED:

(1) That respondent shall immediately cease and desist and thereafter abstain from charging, demanding, collecting, or receiving any charges for the transportation of any of the property described in Decision No. 28810, Case No. 4086, less than the rate prescribed in said decision.

(2) That Radial Highway Common Carrier Permit No. 38-437 and City Carrier Permit No. 38-429, issued to Albert Visser, doing business as Oceanside Transfer Company, be and the same are, and each of them is, hereby suspended for a period of five (5) days from the 7th to the 11th day of July, 1937, both dates inclusive, if service hereof shall have been made more than twenty (20) days prior to said 7th day of July, 1937; otherwise said five (5) day period of suspension shall commence on the effective date of this order. During said period of suspension respondent shall not engage in and shall abstain and cease and desist from the transportation of property for compensation or hire as a business over any public highway in this State by means of a motor vehicle or motor vehicles, or perform any other service as a Radial Highway Common Carrier, as defined in the Highway Carriers' Act, Chapter 223, Statutes of 1935, or as a City Carrier, as defined in the City Carriers' Act, Chapter 312, Statutes of 1935.

The effective date of this order for all other purposes shall be twenty (20) days after the date of service thereof upon respondent.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California, and the Secretary of the Commission is hereby ordered to cause a certified copy of this decision to be served upon respondent Albert Visser.

Dated at San Francisco, California, this 14th day of June, 1937.

William M. ...
Leon ...
Henry ...
Ray ...
Henry ...
Commissioners.