

Decision No. 31343

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
on the Commission's own motion into
the highway carrier operations, rates,
charges, contracts and practices of
SUN TRANSPORT COMPANY, KARDASH TRUCKING
COMPANY, TRUCK RENTAL CORPORATION,
GEORGE KARDASHIAN, VARIS KARDASHIAN,
BOB KARDASHIAN, R. K. MASON, MARGARET
KARDASHIAN, PAUL GENTLE, NUVART
KARDASHIAN, GEORGE O. HARTMAN, FIRST DOE,
SECOND DOE, THIRD DOE, FOURTH DOE, FIFTE
DOE, SIXTH DOE, SEVENTH DOE, EIGHTH DOE,
NINTH DOE and TENTH DOE.

ORIGINAL

Case No. 4291

PRENTISS MOORE and M. C. SCHRAGER, for Respondents,
Sun Transport Company, Kardash Trucking Company,
Truck Rental Corporation, George Kardashian,
Varis Kardashian, Bob Kardashian, R. K. Mason,
Margaret Kardashian, Nuvart Kardashian and George
O. Hartman.

PIERSON, BLOCK, TENNY and HALVA, by A. K. Halva, for
respondent Paul C. Gentle.

CHARLES S. STRATON, for California Milk Transport,
Interested Party.

BY THE COMMISSION:

O P I N I O N

This proceeding is an investigation by the Commission on
its own motion in order to determine whether any of the respondents,
as in the title herein above set forth, has engaged in highway
common carrier or highway carrier operations in violation of the
Public Utilities Act. Highway Carriers' Act, respectively, or any
certificate heretofore issued by the Commission and whether any
of said respondents has aided or abetted in said violations.

A public hearing was had before Examiner Paul at Los Angeles on March 28 and 29, 1936 at which time evidence was adduced and the matter having been duly submitted is now ready for decision.

After the introduction of certain preliminary evidence it was stipulated that respondent George Kardashian is and has been the active manager in actual and continuous control of all of the activities and operations of the three corporate respondents, viz. Sun Transport Company, Kardash Trucking Company, and Truck Rental Corporation.

No evidence was introduced in regard to the other respondents and as to them the investigation will be dismissed.

Respondent George Kardashian testified and described in detail the operations of and the methods used by Sun Transport Company, Kardash Trucking Company and Truck Rental Corporation in the conduct of such operations.

Sun Transport Company is a certificated highway common carrier engaged in the transportation of milk and dairy products for compensation between Los Angeles and various points in Los Angeles County. Kardash Trucking Company is operating as a contract carrier under permit No. 19-1423 and as a city carrier under permit No. 19-3030 issued by this Commission. Truck Rental Corporation holds no operative rights or permits of any kind issued by this Commission. These corporate respondents will hereinafter in this opinion be referred to as Sun Transport, Kardash, and Truck Rental, respectively.

Each corporation is engaged in the business of hauling milk and dairy products from dairies located in the so-called Los Angeles milk shed to creameries in Los Angeles. The business of

all three corporations is conducted from the common depot located at 2701 South Atlantic Boulevard in the unincorporated portion of Los Angeles County. A separate system of bookkeeping is maintained for each corporation in which its shippers are listed and the income segregated. All of the trucks of the three corporations are operated under the management and direction of George Kardashian. Regular routes of operation have been established. Each of the corporations has some shippers on each of these routes. However, Kardash and Truck Rental have no shippers located within the certificated area served by Sun Transport. Trucks are sent out each day to pick up milk and dairy products along these routes-- thus a Sun Transport truck will be sent out along a route and pick up the milk from shippers of all three corporations regardless of whether they are located inside or outside of its certificated territory; a Kardash truck will be sent out over another route picking up the milk from shippers of all three corporations regardless of the existence of contracts; the trucks of Truck Rental operate likewise over another route. It is thus apparent that the routes have been arranged with a view to economy of operations and not to keep such operations of the corporations within their lawful limits.

The trucks after making pick-ups as above described proceed to the Atlantic Boulevard depot where the shipments are segregated and consolidated into truck loads for ultimate delivery to the creamery to which the shipment is consigned. In this segregation the identity of the shippers with respect to the carrier is disregarded. On this final movement from the depot to the creameries at Los Angeles no consideration is given to vehicle ownership. Thus on trucks making the final delivery may be found

milk belonging to the shippers of all of the respondent corporations. Convenience and economy of operation is again the only rule observed by Kardashian. The identity of respondent corporations is observed only in the division of income. That is, income from Kardash shippers is shown on Kardash accounts, that from the Sun Transport shippers is shown in the Sun Transport accounts, and that from the Truck Rental shippers is shown in the Truck Rental accounts.

It is obvious, and the record clearly shows, that through the use of the system hereinabove described an extensive highway common carrier service has been established and is being operated in the absence of a certificate of public convenience and necessity therefor. All of the affairs and operations of the three corporate respondents are managed and controlled by respondent George Kardashian. Their highway operations are so intimately controlled and directed by said Kardashian as to constitute them a single operating unit.

In addition to the above described operation Sun Transport picks up milk at Compton, Gardena, Inglewood and El Segundo and adjacent points which is then transported directly to creameries at Los Angeles. The pickup points of Gardena and Compton are without the territory Sun Transport is certificated to serve.

It is plain from the record that Sun Transport Company, Kardash Trucking Company and Truck Rental Corporation are jointly engaged in operating a highway common carrier service in violation of the terms and provisions of section 50 3/4 of the Public Utilities Act; that Sun Transport Company is engaged in operating a highway common carrier service between points without a certificate therefor and in violation of the terms and provisions of section 50 3/4 of the

Public Utilities Act; that George Kardashian is aiding and abetting such respondents in their unlawful operations.

An order of the Commission directing the suspension of an operation 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 person is adjudged guilty of contempt, a fine may be imposed in the amount of \$500, 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.

FINDINGS OF FACT

Upon a full consideration of the evidence and the facts developed as shown in the record herein, the Commission hereby finds:

1. That Sun Transport Company, Truck Rental Corporation and Kardash Trucking Company have been so co-mingling and conducting their business as to constitute the operations of all three corporations a single operation. That said corporations have thus been jointly engaged as a highway common carrier for compensation in the control, operation and management of a motor vehicle or motor vehicles transporting milk and dairy products over the public highways of the State of California over and along regular routes and between fixed points, to wit, between Los Angeles, Compton, Buena Park, Stanton and Chino and intermediate points, without first having obtained a certificate of public convenience and necessity therefor from the Railroad Commission of the State of California

and without possessing any other highway common carrier operative right therefor.

2. That respondent Sun Transport Company is engaged in the transportation of property for compensation as a highway common carrier over the public highways of the State of California, over and along regular routes between Gardena and Compton and Los Angeles without first having obtained a certificate of public convenience and necessity therefor from the Railroad Commission of the State of California and without possessing any other highway common carrier operative right therefor.

3. That respondent George Kardashian has been aiding and abetting respondents Sun Transport Company, Kardash Trucking Company and Truck Rental Corporation in the accomplishment of the activities hereinabove set forth in finding 1.

4. That the Kardash Trucking Company has been conducting the operation described in paragraph 1 of the findings hereof under the color and pretense of its highway contract carrier's permit No. 19-1423 and in violation of the limitations therein set forth.

O R D E R

A public hearing having been had in the above-entitled proceeding, evidence having been received, the matter having been duly submitted and the Commission being now fully advised:

IT IS ORDERED that respondents Sun Transport Company, a corporation, Kardash Trucking Company, a corporation, and Truck Rental Corporation, a corporation, be and they are, and each of them is, hereby required and directed to cease and desist directly, or indirectly, or by any subterfuge or device, from conducting any and all operations for the transportation of property for compensation

as a highway common carrier as defined in section 2 3/4 of the Public Utilities Act of the State of California, by any motor vehicle or motor vehicles, over the public highways, between Los Angeles, Compton, Buena Park, Stanton and Chino and intermediate points, unless and until they and each of them shall first have obtained from the Railroad Commission a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED that respondent Sun Transport Company, a corporation, is hereby required and directed to cease and desist, directly or indirectly, or by any subterfuge or device, from conducting any and all operations for the transportation of property for compensation as a highway common carrier as defined in section 2 3/4 of the Public Utilities Act of the State of California, by any motor vehicle or motor vehicles, over the public highways, between Los Angeles, Gardena and Compton, unless and until it has first obtained from the Railroad Commission a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED that George Kardashian shall cease and desist and abstain from aiding and abetting Sun Transport Company, a corporation, Kardash Trucking Company, a corporation, and Truck Rental Corporation, a corporation, jointly and severally, from conducting any and all operations for the transportation of property for compensation as a highway common carrier or highway common carriers as defined in section 2 3/4 of the Public Utilities Act of the State of California, by any motor vehicle or motor vehicles, over the public highways, between Los Angeles, Compton, Buena Park, Stanton and Chino and intermediate points, unless and until they and each of them shall first have obtained from the Railroad Commission a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, that highway contract carrier's permit No. 19-1423, issued to said respondent, Kardash Trucking Company, is hereby suspended for a period of thirty (30) days. Said period of suspension shall commence on the effective date of this order and continue for a period of thirty (30) days thereafter.

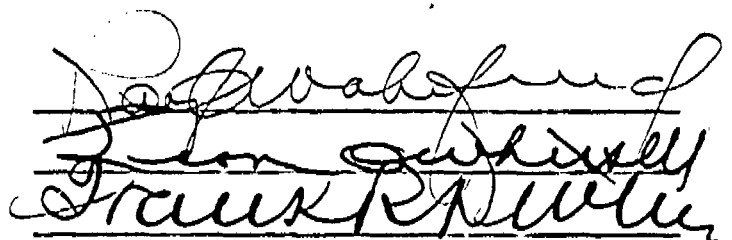
IT IS FURTHER ORDERED that during said period of suspension, said respondent, Kardash Trucking Company, shall desist and abstain from engaging in the transportation of property for compensation or hire as a business over any public highway in this State by means of motor vehicles, as a highway carrier, as said term is defined in the Highway Carriers' Act.

IT IS FURTHER ORDERED that the Secretary of the Commission shall cause a certified copy of this decision to be personally served upon respondents, Sun Transport Company, Kardash Trucking Company, Truck Rental Corporation and George Kardashian.

IT IS FURTHER ORDERED that this proceeding is hereby dismissed and the order instituting investigation herein is hereby discharged as to respondents Varis Kardashian, Bob Kardashian, R. K. Mason, Margaret Kardashian, Paul Gentle, Nuvart Kardashian, and George O. Hartman.

IT IS FURTHER ORDERED that this order shall become effective as to each respondent twenty (20) days from and after service thereof upon such respondent.

Dated at San Francisco, California, this 10th day of October, 1938.



COMMISSIONERS