

Decision No. 32230

ORIGINAL

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, ) Case No. 4421  
and practices of J. F. JEFFREYS. )

J. F. JEFFREYS, In Pro. Per.

WAKEFIELD, COMMISSIONER:

OPINION

This proceeding was instituted by the Commission on its own motion to determine whether respondent J. F. Jeffreys transported property, including household goods and building materials, in the vicinity of Los Angeles, as a highway carrier other than a highway common carrier, without issuing to each shipper for whom services were performed a freight bill in the form prescribed by the Commission in its Decision No. 29891, issued in Cases Nos. 4086 and 4099, in violation of the order contained in said decision and of Section 20 $\frac{1}{2}$ (b) of the Highway Carriers' Act.

A public hearing was held on June 7, 1939, at Los Angeles, at which the respondent appeared and offered testimony. The matter was then submitted and it is now ready for decision.

From the testimony of Investigator Harry Rosenthal, together with evidence from the files and records of the Railroad Commission, it was established of record that respondent holds a permit from the Commission, issued on October 18, 1938, to operate as a radial highway common carrier within a fifty mile radius of Belvedere Gardens, California, which is a community in the vicinity of Los Angeles. He also holds a city carrier's permit, issued on May 19, 1939. Two prior radial and two prior city carrier permits were cancelled because of Jeffrey's failure to keep on deposit with the Commission adequate insurance covering his motor vehicle equipment, which at the present time consists of a 1937 Dodge truck.

It was also established that respondent was served on July 30, 1937, with a copy of Decision No. 29891, issued in Cases Nos. 4086 and 4099, wherein is to be found a direction to all radial highway common carriers and city carriers to issue to each shipper for whom transportation services are performed, a freight bill in substantially the form prescribed in Appendix "B" of said decision.

Following a complaint received by the Division of Investigation at Los Angeles, Investigator R. A. Young called upon respondent on July 7, 1938, and found he was keeping no copies of shipping documents or other records to support or verify the lawfulness of his charges. Young warned him to keep proper records and assess proper rates.

In a letter dated July 18, 1938, (Exhibit No. 3) the Commission advised Jeffreys that it would be necessary to make a part of his records the shipping order or freight bill prescribed by Decision No. 29891, and, in addition, called his attention to the

rates applicable to the movement of household goods in the territory in which respondent operated, and the penalties likely to be incurred for violations of these rates or of any orders or regulations of the Commission. Jeffreys produced the original of this letter at the hearing and, hence, must be deemed to have performed the acts hereinafter described in the light of knowledge of its contents, and of the requirements of the Commission's orders.

On September 26th and December 27th, 1938, Rosenthal called on Jeffreys for the purpose of inspecting his records. On each occasion respondent was found not to have issued to shippers the form of freight bill designated by the Commission, or to have retained copies of such documents in his records. On each of these occasions Rosenthal warned respondent to issue to shippers and keep a copy of the required freight bill, which respondent promised to do.

Four individual shippers testified concerning movements of property during October, November, and December, 1938.

Thelma Stonum, a bookkeeper for F. E. Hunt, a building contractor, stated that Jeffreys transported a shipment of building materials about October 26, 1938, for her employer from Belvedere to The Pacific Colony at Spadra, for which she paid him the sum of \$18.00. No freight bill or other document was given by the carrier to the shipper covering this movement.

The second shipment, which was transported on November 23rd, consisted of three pumps hauled from Burbank to the Pacific Colony for the sum of \$15.00. Though not consisting of household goods,

this property was transported by respondent without issuing to the shipper any kind of shipping document whatsoever from which could be determined the nature of the commodity transported, its weight, the rate charged or collected, the time involved, the name and address of the shipper, the name of the carrier, or any information essential to a check of the carrier's operations, rates, or charges.

Mrs. George Salerno testified that on November 9, 1938, respondent moved her household goods from 4362 Union Pacific Avenue to 1235 Brannick Street, Belvedere, for \$5.00 cash. The carrier's records (Exhibit No. 1) do not show the correct name of this shipper and she stated that she had not been given a freight bill, receipt, or other shipping document.

Mrs. B. Bagby testified that respondent moved some of her personal effects consisting of a cedar chest, two trunks, two chairs, a dog cage, and two boxes, on December 5, 1938, from 1023 Clela Street to 2626 South Gage Street, Belvedere, for the sum of \$2.00. No shipping order, freight bill or other document was tendered to the shipper by the carrier on this occasion.

Jeffreys voluntarily testified on his own behalf. He stated that he did not know that the movement of household goods was considered as "shipping," nor that he was required to issue to each shipper a freight bill for such transportation. He stated that he had read the Commission's orders from time to time as they were received, but did not know that they applied to his operations as a carrier engaged chiefly in the movement of household goods.

It is clear from the record in this investigation that respondent has had ample time to familiarize himself with the requirements of this Commission respecting the keeping of adequate records and of the order contained in Decision No. 29891 to issue to shippers a freight bill conforming to that set forth in Appendix "B" of said decision, and that the Commission, through its Division of Investigation, has made extraordinary effort to instruct respondent as to these requirements and how to comply therewith. His failure to comply with the Commission's order after repeated warnings to do so merits the suspension of his permits.

At the present time respondent holds radial highway common carrier permit No. 19-8415 and city carrier permit No. 19-9602. Under section 14 $\frac{1}{2}$  of the Highway Carriers' Act, suspension of the radial highway common carrier permit is authorized for violation of that act. There appears, however, to be no authority for the suspension of a city carrier permit for violation of the Highway Carriers' Act.

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 party is adjudged guilty of a 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; Wermath 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, a person who violates an order of the Commission is guilty of a misdemeanor and punishable by a fine not exceeding \$500.00, or by imprisonment in the county jail not exceeding three (3) months, or by both such fine and imprisonment.

Respondent is cautioned not to undertake to sell, furnish, or provide transportation to be performed by any other carrier, on a commission basis or for other consideration, while his permit is suspended, unless he shall first obtain the license required by the Motor Transportation Broker Act (Stats. 1935, Chap. 705) for such operations as a broker. It is to be noted that under Section 16 of that act one who engages in business as a Motor Transportation Broker without the required license is subject to a fine of not to exceed \$500.00, or to imprisonment in the county jail for a term not to exceed six months, or to both such fine and imprisonment.

Upon full consideration of all the evidence of record, I am of the opinion, and therefore find:

I.

That respondent, J. F. Jeffreys, on or about the dates and for the shippers hereinafter named, did engage in the transportation of household goods, personal effects, and other personal property, for compensation or hire, as a business, by means of a motor vehicle over the public highways in this state, without issuing to each or any of said shippers for each or any shipment received by said respondent for transportation, a shipping order or freight bill in substantially the form prescribed in Appendix "B" of Decision No. 29891, in Cases Nos. 4086 and 4099, or at all, in violation of the order contained

in said decision and of section 20<sup>1</sup>/<sub>2</sub>(b) of said Highway Carriers' Act; that the dates of said shipments and the names of said shippers are as follows:

October 26, 1938; F. H. Hunt.  
November 9, 1938; Mrs. George Salerno.  
November 23, 1938; F. H. Hunt.  
December 5, 1938; Mrs. B. Bagby.

The following form of order is recommended:

O R D E R

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

IT IS HEREBY ORDERED that respondent J. F. Jeffreys shall immediately cease and desist and thereafter abstain from the transportation of any of the property described in Decision No. 29891, and as amended, in Cases Nos. 4086 and 4099, without issuing to the shipper, for each shipment received for transportation, a shipping order or freight bill in substantially the form prescribed in Appendix "B" attached to and made a part of said Decision No. 29891.

IT IS HEREBY FURTHER ORDERED that radial highway common carrier permit No. 19-2415, heretofore issued to said respondent, shall be suspended for a period of seven days; that said seven-day period of suspension shall commence on the 14th day of August, 1939, and continue to the 20th day of August, 1939, both dates inclusive, if service of this order shall have been made upon said respondent more than twenty (20) days prior to said 14th day of August, 1939; otherwise said seven-day period of suspension shall commence on the effective date of this order and continue for a period of seven days thereafter.

IT IS HEREBY FURTHER ORDERED that during said period of suspension respondent J. F. Jeffreys shall desist and abstain from engaging in 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, and from performing any other service as a radial highway common carrier as that term is defined in Section 1(f) of said Highway Carriers' Act.

The effective date of this order shall be twenty (20) days after the date of service hereof upon the said 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.

Dated at San Francisco, California, this 7<sup>th</sup> day of August, 1939.

Ray B. [unclear]  
Frank [unclear]  
[unclear]  
Justus J. [unclear]

COMMISSIONERS.