

Decision No. 34529

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, con-)
tracts, and practices, of R. W.) Case No. 4553
HASEROT, an individual, doing business)
as A. B. TRANSFER.)

ORIGINAL

R. W. Haserot, in propria persona

CRAEMER, Commissioner:

O P I N I O N

This proceeding was instituted by the Commission on its own motion into the operations of respondent, R. W. HASEROT, who holds Highway Contract Carrier Permit No. 19-5390, for the purpose of determining whether or not respondent, as a highway contract carrier, as that term is defined in Section 1-(i) of the Highway Carriers' Act (Stats. 1935, Chap. 223, as amended) engaged in the transportation of uncrated used household goods and personal effects, or any of them, on or about the dates and between the addresses as follows:

March 31 and April 10, 1938 - From, at or near 2945 South Normandie Street, Los Angeles, California, to, at or near 830 South 2nd Street, Alhambra, California;

at rates less than the minimum rates for such transportation, established by order of the Railroad Commission in Decision No. 29891 in Case No. 4086, as modified and amended by Decision No. 30482 in said Case No. 4086, in violation of said orders and said Act; and whether or not said respondent failed to issue to the shipper or shippers for said shipment or shipments a freight bill or freight bills in substantially the form prescribed

and established by order of the Railroad Commission.

Public hearing in this matter was held at Los Angeles on September 23rd, 1940, at which time respondent appeared, evidence was received, the matter submitted and the same is now ready for decision.

The evidence shows that respondent has been and now is, and on March 31st and April 10th, 1939, engaged in the business of transporting uncrated used household goods, furniture and personal effects as a highway contract carrier, as that term is defined in Section 1-(i) of the Highway Carriers' Act, and that on each of the above mentioned dates as such highway contract carrier, he transported over five (5) pieces of such property between the addresses above set forth, by means of a motor truck having a loading area of not less than 90 square feet. It is further evident that respondent and two helpers performed the transportation on March 31st, 1939, taking 25 minutes to load, 70 minutes to drive from 2945 South Normandie Street, Los Angeles, to 830 South 2nd Street, Alhambra, California, and 40 minutes to unload. The total time taken on this move, after doubling the driving time as required by Decision No. 29891, was 4 hours and 25 minutes, which, under Rule 30-(d) of Decision No. 30482, is, for the purpose of computing the proper charge, increased to 4½ hours. The above mentioned transportation having been performed in Territory B referred to in Item No. 200 of Decision No. 30482 and specifically defined in said Decision No. 29891, takes a rate of \$5.00 per hour for a vehicle of not less than 90 square feet, with driver and two helpers. The minimum charge collectible, therefore, was \$22.50, whereas respondent charged

and collected but \$14.00, resulting in an undercharge of \$8.50. In respect to the move on April 10th, 1939, respondent and two helpers performed the transportation, taking 90 minutes to load, 45 minutes to drive between said addresses and 45 minutes to unload. The total time taken on this move, after doubling the driving time as required by said Decision No. 29891, was 3-3/4 hours. Applying the applicable rate of \$5.00 per hour above mentioned for said transportation, the minimum charge collectible was \$18.75, whereas respondent charged for three hours' work at the rate of \$4.00 per hour, collecting only \$12.00. It is apparent, therefore, that there was an undercharge in the sum of \$6.75.

Respondent also failed to issue to the shipper for the transportation performed on each of the days mentioned a freight bill in substantially the form prescribed and established by order of the Railroad Commission in Decision No. 29891, Appendix "B" thereof.

Respondent did not dispute the violations above mentioned. He stated it was difficult for him to read and keep posted on the Commission's rate orders. It appears, however, that he was not unfamiliar with the minimum rates applicable to the transportation which he performed. After taking into consideration all the facts we believe respondent's permit should be suspended for a period of seven (7) days and he should be ordered to cease and desist his 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 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. Sec. 1218;
Motor Freight Terminal Co. v. Bray, 37 C.R.C. 224;
Re Ball & Hayes, 37 C.R.C. 407;
Wormuth v. Stamper, 36 C.R.C. 458;
Pioneer Express Company v. Keller, 33 C.R.C. 571.

It should be noted that under Section 14 of the Highway Carriers' Act (Chapter 223, Statutes 1935, as amended), one 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 (3) months, or by both such fine and imprisonment.

The following form of finding and order is recommended:

ORDER

Public hearing having been held herein, evidence having been received, the matter having been submitted and the Commission now being fully advised in the premises,

IT IS HEREBY FOUND that respondent, R. W. Haxerot, did on March 31st and April 16th, 1939, engage in the transportation of uncrated household goods, furniture and personal effects, for compensation as a business over the public highways of the State of California, between 2945 South Normandie Street, Los Angeles, and 830 South 2nd Street, Alhambra, California, by means of a motor vehicle as a highway contract carrier, as that term is defined in Section 1-(1) of the Highway Carriers' Act (Stats. 1935, Chap. 223, as amended), at rates less than the minimum rates prescribed therefor in and by virtue of Decisions No. 29891 and

30482, in Case No. 4086, in violation of said decisions and the Highway Carriers' Act.

IT IS HEREBY ORDERED that respondent, R. W. Haserot, be and he is hereby directed to immediately cease and desist and thereafter abstain, directly or indirectly, or by any subterfuge or device, from charging or collecting any rate or rates less than the minimum rates therefor, established by the Commission for the transportation of property for compensation or hire by means of a motor vehicle over the public highways in the State of California as a highway carrier, as that term is defined in Section 1-(f) of said Highway Carriers' Act (other than a highway common carrier, as that term is defined in Section 1-(g) of said Highway Carriers' Act).

IT IS HEREBY FURTHER ORDERED that Highway Contract Carrier's permit No. 19-5390, issued to and held by said respondent, R. W. Haserot, be and the same is hereby suspended for a period of seven (7) days; that said seven-day period of suspension shall commence on the *18th* day of *November*, 1940, and continue to the *24th* day of *November*, 1940, both dates inclusive, if service of this order shall have been made upon said respondent more than *20* days prior to the *18th* day of *November*, 1940, otherwise said seven-day suspension shall commence on the effective date of this order and continue for a period of seven (7) days thereafter.

IT IS HEREBY FURTHER ORDERED that during said period of suspension, said respondent, R. W. Haserot, shall desist and abstain from engaging in the transportation of property as said highway carrier (other than a highway common carrier), 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 transportation service as said highway carrier (other than a highway common carrier).

IT IS HEREBY FURTHER ORDERED that the Secretary of the Commission shall cause a certified copy of this decision to be served upon said respondent.

IT IS HEREBY FURTHER ORDERED that for all other purposes the effective date of this order shall be twenty (20) days from and after the service hereof upon 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 *22nd* day of *October*, 1940.

Ray A. Riley
Stanley H. Miller
Paul A. Babcock
Justus J. Cremer
COMMISSIONERS