

ORIGINALDecision No. 55027

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates, and practices of KENNETH)
 SHERRADEN.)

Case No. 5892

Kenneth Sherraden, in propria persona.
Hector Anninos, for the Commission staff.

O P I N I O N

This proceeding was instituted upon the Commission's own motion by the service of an order instituting investigation upon the respondent, Kenneth Sherraden, on February 8, 1957, to determine (1) whether respondent has acted in violation of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 2; (2) whether respondent has acted in violation of the Public Utilities Code by failing to adhere to Item 250-A of Minimum Rate Tariff No. 2 by failing to collect freight charges within the period of time set forth therein; (3) whether respondent has acted in violation of the Public Utilities Code by failing to adhere to Item 255-C of Minimum Rate Tariff No. 2 in failing to issue a shipping document to the shipper bearing the information prescribed thereon; and (4) whether any other order or orders that may be appropriate should be issued in the lawful exercise of the Commission's jurisdiction.

A public hearing was held in Los Angeles on April 17, 1957, before Examiner Kent C. Rogers. Oral and documentary evidence having been adduced and the matter having been submitted for decision,

the Commission makes the following findings of fact and conclusions of law:

That respondent, Kenneth Sherraden, at all times herein mentioned was and now is the holder of Radial Highway Common Carrier Permit No. 19-45604, issued by this Commission on April 22, 1952; that respondent has been served with a copy of Minimum Rate Tariff No. 2, Distance Table No. 4, and pertinent amendments and supplements thereto, and at all times set forth hereinafter knew or should have known the contents of said tariff and distance table; that respondent transported 10 shipments of hay bales from nine consignors to one consignee, Woodruff Hay Company, in Bellflower, California; that all of said shipments originated in the North Kern Territory (Wasco, McFarland and Bakersfield); that in each instance the freight charges were paid by the consignee, Woodruff Hay Company; that the 10 shipments are reflected on respondent's freight bills Nos. 07899, 07900, 07902, 07903, 07904, 07905, 07906, 07908, 07909 and 07910 (Exhibits 3 through 12, inclusive); that respondent prepares freight bills in triplicate but destroys two copies and retains one copy for his records; that of the 10 freight bills referred to above, one (Exhibit 4) shows no point of destination, two (Exhibits 9 and 11) show Bakersfield as the point of origin whereas the point of origin was at a point near Lerdo, California, and the remaining eight show no point of origin; that after each of the above shipments was picked up it was weighed and a public weighmaster's certificate received by respondent; that each certificate shows only the date the shipment was weighed, the weight of the shipment, the signature of the weighmaster and his official seal; that each shipment was delivered to Woodruff Hay Company in Bellflower on the date of the freight bill or the following day; that at the time of the delivery the consignee

was given the weighmaster's certificate and no other document; that no copy of the freight bill or any other document with reference to any of said shipments, other than the weighmaster's certificate, was ever given by respondent to the consignee; that for a shipment delivered on July 17, 1956, the consignee paid the freight charges to respondent on July 31, 1956; that for shipments delivered on August 1, 1956, August 3, 1956, and August 10, 1956, the consignee paid the freight charges to respondent on August 18, 1956, and that the only record of the herein referred to operations which respondent keeps, other than his copies of the freight bills, are his monthly bank statements showing the deposit of checks from the Woodruff Hay Company.

The evidence further shows that respondent undercharged for the transportation services shown on the following numbered freight bills (Exhibits 3 to 12, inclusive), amounts as follows:

<u>Date</u>	<u>Freight Bill No.</u>	<u>Amount Charged and Collected by Respondent</u>	<u>Correct Total Charges as per MRT No. 2, Item 658-H and Supplement 30 Thereto</u>	<u>Amount Under-charged</u>
7-13-56	07899	\$136.17	\$161.40	\$25.23
7-17-56	07900	138.64	164.33	25.69
7-24-56	07902	129.67	153.69	24.02
7-27-56	07903	135.59	160.70	25.11
7-30-56	07904	137.28	162.70	25.42
8--1-56	07905	155.54	184.36	28.82
8--3-56	07906	134.68	159.62	24.94
8-10-56	07908	111.47	138.67	27.20
8-13-56	07909	133.38	158.08	24.70
8-15-56	07910	128.76	152.61	23.85

The record further shows that between July 1, 1956, and September 15, 1956, the respondent carried 29 shipments of baled hay for Woodruff Hay Company in addition to the 10 shipments specifically referred to herein, and that each such shipment showed some practices similar to those discussed herein, including undercharges, and

failure to comply with the provisions of Items 250-A and 255-C of Minimum Rate Tariff No. 2.

The Commission having considered the evidence of record and having found facts as hereinabove set forth, concludes that Kenneth Sherraden has violated the provisions of Minimum Rate Tariff No. 2, particularly Item 250-A, and Section 3737 of the Public Utilities Code, in that he failed to present freight bills to the shipper within seven calendar days from the first 12 o'clock midnight following delivery of the freight, excluding Sundays and holidays; received a lesser compensation for the transportation of freight than the applicable charges prescribed in Minimum Rate Tariff No. 2, in violation of Sections 3664, 3667, 3668 and 3737 of the Public Utilities Code; in that he failed to issue shipping documents containing the information required by Item 255-C of Minimum Rate Tariff No. 2, in violation of Section 3737 of the Public Utilities Code; and in that he failed to keep adequate records as required by the appropriate Uniform System of Accounts for Motor Carriers, as prescribed by this Commission, in violation of Sections 3703 and 3704 of the Public Utilities Code.

O R D E R

A public hearing having been held in the above-entitled matter, the Commission being fully advised in the premises, and having made the findings and conclusions as set forth above,

IT IS ORDERED:

(1) That Radial Highway Common Carrier Permit No. 19-45604, issued to Kenneth Sherraden, be, and the same hereby is, suspended for a period of not less than 10 days beginning at 12:01 a.m. on the Monday following the effective date of this order, provided further

that the suspension shall continue in effect beyond said period of 10 days unless and until, upon further order of this Commission, the suspension be set aside and respondent's permit restored upon a satisfactory showing made to this Commission in writing that respondent, Kenneth Sherraden, has: (a) collected or has taken appropriate action or measures to collect all undercharges as hereinabove set forth, (b) commenced an audit of his transportation operations for a period of three years prior to the effective date of this order, and, within 30 days after the completion of said audit, but not later than 90 days after the effective date of this order, has collected or has taken appropriate steps to collect all undercharges arising out of his said transportation operations during said three-year period.

(2) That respondent, Kenneth Sherraden, shall henceforth issue shipping documents in strict conformance with Item 255 Series of Minimum Rate Tariff No. 2.

(3) That respondent, Kenneth Sherraden, shall hereinafter comply with the provisions of Item 250 Series of Minimum Rate Tariff No. 2.

(4) That within 60 days after the effective date of this order respondent shall have prepared and thereafter keep in proper form a set of accounts in conformance with the appropriate Uniform System of Accounts for Motor Carriers as prescribed by this Commission.

(5) That upon Kenneth Sherraden's failure to have his Permit No. 19-45604 restored in the manner set forth in paragraph (1) hereof within 90 days after the effective date of this order, said permit is hereby revoked and cancelled effective 90 days after the effective date of this order.

The Secretary is ordered to cause service of this order to be made upon respondent, Kenneth Sherraden.

The effective date of this order shall be twenty days after service thereof on respondent.

Dated at San Francisco, California, this 21st day of MAY, 1957.

John E. Maxwell
President
Paula Winters
William Doolan
R. Hartzo
E. Linton
Commissioners