

Decision No. 59347**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations,  
rates and practices of JOHN SHUBIN,  
JR., doing business as LIVESTOCK  
TRANSPORT CO. }

Case No. 6265

Ivan McWhinney, for Livestock Transport Co.,  
respondent.  
Edward G. Fraser, for the Commission staff.

O P I N I O N

This Commission on May 5, 1959, issued an order of investigation into the operations, rates and practices of John Shubin, Jr., doing business as Livestock Transport Co., who at that time was engaged in the business of transporting livestock over the public highways for compensation as a highway common carrier. Pursuant to said order, public hearings were held on September 24, 1959, at Los Angeles before Examiner Wilson E. Cline, at which time evidence was presented and the matter was taken under submission.

Purpose of Investigation

The purpose of this investigation is to determine whether respondent has violated Section 494 or Section 532 of the Public Utilities Code by charging, demanding, collecting or receiving different compensation for the transportation of livestock or for any services in connection therewith than the applicable rates, tolls and charges specified in John Shubin, Jr., dba Livestock Transport Co., Livestock Transport Local Tariff No. 1, Cal. P.U.C. No. 6 (of T. A. L. Loretz, Agent) and by failing to adhere to the provisions of said tariff, particularly Items Nos. 40, 65, 115, 140, 150, 160 and 180 thereof, all as more specifically set forth in the said order instituting investigation.

Findings and Conclusions

Upon the evidence of record the Commission finds that:

Respondent at all times referred to in the order of investigation herein and until August 10, 1959, was engaged in the business of transporting livestock over the public highways for compensation as a highway common carrier pursuant to certificate of public convenience and necessity issued by this Commission to respondent by Decision No. 52422, dated December 28, 1955.

On August 10, 1959, pursuant to Decision No. 58799, in Application No. 41190 Live Stock Transport Co., a corporation, acquired the operating rights and properties of the highway common carrier, the respondent herein, upon the filing of Bill of Sale, Report of Issuance of Shares of Stock and stipulation. John Shubin, Jr., respondent herein is the sole stockholder and the sole owner of said Live Stock Transport Co., a corporation. Said stipulation provides that Live Stock Transport Co., a corporation, agrees that the operative rights to be acquired by it pursuant to Decision No. 58799 shall be subject to the terms and conditions of the decision to be issued herein, and that it will accept and assume whatever penalties may be imposed by said decision.

Respondent held Radial Highway Common Carrier Permit No. 19-9889 which has been revoked by reason of his failure to file evidence of insurance with this Commission. ✓

Respondent assessed and collected other charges less than the applicable charges prescribed in John Shubin, Jr., dba Livestock Transport Co., Livestock Transport Local Tariff No. 1, Cal. P.U.C. No. 6 (of T. A. L. Loretz, Agent) which resulted in undercharges as follows (from Exhibits Nos. 3 and 5):

<u>Respondent's Freight Bill Number</u>	<u>Date</u>	<u>Amount of Undercharge</u>
9128	11/12/57	\$ 4.90
9050	11/27/57	42.78
9781	3/ 2/58	65.21
9870	3/ 3/58	77.76
9699	3/ 6/58	24.58
9815 and 9816	3/16/58	78.65
10317	4/30/58	69.59
10696	5/ 9/58	7.92
10077	5/14/58	49.30
10187	5/28/58	48.50
10278	6/ 4/58	57.47
10071	6/11/58	44.75
10784	6/11/58	40.57
10144	6/11/58	45.44
10143	6/11/58	40.31

The total undercharges for the above shipments amount to \$697.73.

The respondent transported free loads of livestock as follows (from Exhibits Nos. 3 and 6):

<u>Public Weighmaster's Certificate of Weight and Measure Number</u>	<u>Date</u>	<u>Amount of Proper Charge</u>
8154	5/11/58	\$143.71
F38458	5/19/58	140.47
8189	5/12/58	178.09
F39691	5/28/58	172.95
F39768	5/29/58	165.62
F42546	6/18/58	130.68
8950	6/28/58	75.34
8931	6/30/58	127.30
8932	6/30/58	111.60
8941	6/30/58	126.50
F51155	9/ 1/58	91.94
F51828	9/ 6/58	137.09
F51897	9/ 7/58	30.00
F52542	9/11/58	184.83
F52762	9/14/58	215.76
F54328	9/25/58	250.79

The total proper charges for the above free loads amount to \$2,282.67.

In the performance of various transportation services hereinabove set forth and as more particularly appearing in Exhibits Nos. 3, 5 and 6 of record herein, respondent has violated or failed to comply with the provisions of Sections 494 and 532 of the Public

Utilities Code by failing to comply with various rules and regulations of John Shubin, Jr., dba Livestock Transport Co., Livestock Transport Local Tariff No. 1, Cal. P.U.C. No. 6 (or T.A.L. Loretz, Agent) in the transportation of livestock in that he (1) transported free loads in violation of Item 40, (2) failed to obtain public weighmaster's certificates under Item 115 and to determine the weight of the shipments under Item 65 when no weight certificate was obtained, (3) failed to rate shipments separately as required by Item 140, (4) failed to obtain written instructions on split pickup and split delivery as required by Items 150 and 160, and (5) failed to compute rates in accord with Item 180.

The Commission having found the facts as hereinabove set forth and concluding that respondent has violated Sections 494 and 532 of the Public Utilities Code makes its order as follows:

O R D E R

Public hearings having been held and the Commission basing its decision on the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

1. All operating authority of John Shubin, Jr., doing business as Livestock Transport Co., respondent herein, and all operating authority of Live Stock Transport Co., a corporation, are hereby suspended for a period of ten consecutive days commencing at 12:01 a.m. on the second Monday after the effective date of this order.

2. Respondent and Live Stock Transport Co., a corporation, shall post at the terminal and station facilities of Live Stock Transport Co., a corporation, used for receiving property from the public for transportation, not less than five days prior to the

beginning of the suspension period, notices to the public stating that respondent's operating authority has been suspended by the Commission under this order for a period of ten days; that within five days after such posting, respondent and Live Stock Transport Co., a corporation, shall file with this Commission copies of such notices, together with affidavits setting forth the dates and places of posting thereof.

3. Respondent and Live Stock Transport Co., a corporation, shall examine their records for the period from October 1, 1958, to the present for the purpose of ascertaining if any additional undercharges have occurred and if any additional free loads have been transported, other than those mentioned in this decision.

4. Respondent and Live Stock Transport Co., a corporation, shall take such action as may be necessary to collect undercharges and charges for free loads, both those set forth in the foregoing opinion and those, if any, found during the examination ordered by paragraph 3 of this order.

5. Within ninety days after the effective date of this order, respondent and Live Stock Transport Co., a corporation, shall report in writing to this Commission the undercharges and the free loads, if any, found as a result of the examination ordered by paragraph 3 of this order and the results of their efforts to collect the undercharges and the charges for free loads as required by paragraph 4 hereof. Thereafter, respondent and Live Stock Transport Co., a corporation, shall submit, in writing, on the first Monday of each month, a report of undercharges and charges for free loads remaining

to be collected and the action taken to collect such charges, until such charges have been collected in full or until further order of this Commission.

The Secretary of this Commission is directed to cause personal service of this order to be made on respondent and on Live Stock Transport Co., a corporation, and this order shall be effective twenty days after the completion of such service on both of said parties.

Dated at San Francisco, California, this 8<sup>th</sup> day of December, 1959.

*Everett H. Page*  
 President

*W. E. ...*

*Walter ...*

*E. ...*

*Theodore ...*  
 Commissioners