

Decision No. 62951**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 WARREN H. DESPER, doing business as
 Desper Terminal & Distributing Co.,
 for a certificate of public conven-
 ience and necessity to operate as a
 highway common carrier for the
 transportation of crated new furniture
 and office equipment from Los Angeles,
 California, to various points in
 Southern California.

Application No. 31268

Warren H. Desper, in propria persona.
Robert A. Lane, for the Commission staff.

O P I N I O N

Warren H. Desper was granted a certificate of public convenience and necessity to operate as a highway common carrier for the transportation of crated new furniture between the Los Angeles Drayage Area and various points and places in southern California, by Decision No. 44825, dated September 19, 1950, in Application No. 31268. Subsequently, in 1958 he became temporarily insolvent due to a combination of circumstances. He was engaged in extensive pool car distribution operations at that time. Frequently, he was required to pay the rail freight on incoming cars before he could collect from the ultimate consignees for the completed transportation which occurred after distribution of the pool cars. Also, a strike was then in progress which prevented him from making the pool car deliveries and collecting the sums needed to defray his disbursements. This forced him to stop operating and to permit his requisite

insurance coverage to lapse. The Commission thereafter suspended his certificate by Decision No. 59925, dated April 12, 1960, in this proceeding.

During the period of such suspension, Desper's participation in the Western Classification was canceled as well as his participation in the agency tariffs of Western Motor Tariff Bureau, Inc. Further, Desper failed to pay to this Commission the minimum quarterly fees required of carriers by Section 5003 of the Public Utilities Code. His assumption was that no fee was due while his operative authority was under suspension and while he had done no business.

Because Desper had failed to file the required classification and tariffs, to keep a certificate of insurance protection on file with the Commission, and to pay the requisite quarterly fees, Decision No. 61000 was issued in this proceeding revoking Desper's highway common carrier certificate. The order therein provided that if Desper filed a written response thereto, before it became effective, requesting a public hearing, such order would be stayed. Such a response was duly filed. Pursuant thereto a hearing was held before Commissioner Fox and Examiner Power at Los Angeles on September 14, 1961, when the matter was submitted.

It appears from the record, and the Commission finds and concludes, that Desper's failure to comply with the requirements, above mentioned, resulted largely from misunderstanding, inadvertence and events beyond the carrier's control.

The suspension and revocation of applicant's certificate will be vacated and set aside. This action will be conditioned upon applicant's reinstating his service within a reasonable time and compliance with applicant's obligations to the Commission. This, he testified, he was in a position to do. However, should he fail to

comply with the requirements of this order, Decision No. 61000 shall take effect and applicant's certificate will stand revoked.

O R D E R

Applicant having filed a written objection to Decision No. 61000, public hearing having been held and based upon the evidence therein adduced,

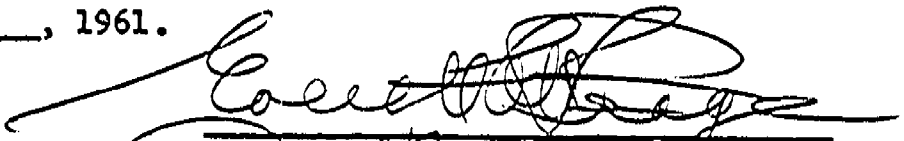
IT IS ORDERED that:


1. Decision No. 61000, dated November 1, 1960, in this proceeding is hereby set aside, provided that such setting aside shall be of no force and effect unless Warren H. Desper shall have complied with each and all of the terms and conditions set forth in paragraphs 2 and 3 of this order.
2. Within thirty days after the effective date of this order, Warren H. Desper shall file a new acceptance of the certificate of public convenience and necessity granted to him by Decision No. 44825, dated September 19, 1950, in this proceeding.
3. Within ninety days after the effective date of this order, Warren H. Desper shall:
 - (a) File all quarterly reports and make all payments due from him under Section 5003 of the Public Utilities Code.
 - (b) File evidence, satisfactory to the Commission, of compliance with General Order No. 100-B.
 - (c) File a classification and tariffs satisfactory to the Commission.
 - (d) Reestablish the service authorized by said Decision No. 44825.
4. Effective concurrently with the effective date of tariff filings required by paragraph 3(c) hereof, Decision No. 59925, dated April 12, 1960, and Decision No. 61000, dated November 1, 1960, in


Application No. 31268, are hereby vacated and set aside. However, if Warren H. Desper should fail to comply with the requirements of paragraphs 2 and 3 hereof, the Order Revoking Operative Rights in Decision No. 61000 shall become effective ninety days after the effective date of this order.

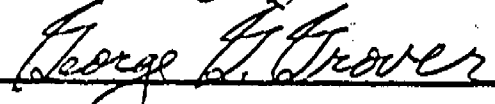
The effective date of this order shall be twenty days after the date hereof.


Dated at San Francisco, California, this 19th day of DECEMBER, 1961.



President








Commissioners