

ORIGINAL

Decision No. 66106

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the rates and
practices of MARTIN J. HERREMA,
doing business as M. J. HERREMA
TRUCKING.

Case No. 7202

Martin J. Herrema, for respondent.
Bernard A. Peeters, for Commission staff.

O P I N I O N

An order reopening proceeding was made by the Commission dated May 21, 1963 and amended June 18, 1963, to determine whether Martin J. Herrema has fully complied with ordering paragraph 7 of Decision No. 63237 in the above-entitled matter.

A public hearing was held in Los Angeles on July 8, 1963, before Examiner DeWolf to determine:

1. Whether respondent has failed to fully comply with said order.
2. Whether respondent's permits should be canceled, revoked or suspended as provided for in Section 3774(c) of the Public Utilities Code.
3. Whether, as an alternative to the cancelation, revocation or suspension of any or all of respondent's operating authority, a fine should be imposed as provided in Section 3774 of the Public Utilities Code.

Evidence Submitted by Commission Staff

A Commission staff witness testified to numerous communications with Martin J. Herrema regarding the undercharges reported subsequent to Decision No. 63237 dated February 6, 1962. There was received in evidence Exhibit No. 1 containing copies of numerous letters of respondent and listings of reported and collected undercharges, consisting of 15 separate parts. Exhibit No. 1 describes undercharges reported of \$27,690.49 and collections reported of \$19,113.53 and a balance uncollected of \$8,576.96.

Evidence of Respondent

Respondent Herrema testified that he had collected \$23,113.53 in undercharges and had found certain errors in some of the previously reported undercharges which should be revised, and that the largest item of \$9,971.74 should have been listed as the sum of \$7,344.42 and that all of this last sum has been paid except the sum of \$344.42 which he expects to be paid this month.

Respondent testified that of the remaining undercharges the sum of \$798.17 listed for one shipper was improperly included for the reason that the shipper was on rail and the charge collected was in excess of the rail rate so that no additional charges were due. Of the other listed undercharges two were disputed accounts made through grain brokers and two shippers stated that they were not responsible for the freight charges.

Respondent testified that he had not filed suit on any of the delinquent accounts but would do so if given additional

time, and would file a complete report showing compliance with ordering paragraph 7 of Decision No. 63237.

We find from the evidence of record that:

1. Respondent failed to comply with ordering paragraph 7 of Decision No. 63237 because he has not instituted legal proceedings to obtain uncollected undercharges and because he did not submit timely reports of undercharges remaining to be collected.

2. Undercharges of \$27,690.49 were reported by respondent and \$23,113.53 of such sum was collected by him.

3. The balance of uncollected undercharges reported is \$8,576.96 of which sum \$3,425.49 was erroneously included in such report and two undercharges listed were disputed accounts for transportation for grain brokers where the two shippers involved deny responsibility for the freight charges.

4. Respondent did not file the required monthly reports because he concluded he had nothing more to report.

5. Respondent will file suit to collect delinquent undercharge accounts if given a reasonable time to do so and also will file reports pursuant to paragraph 7 of Decision No. 63237.

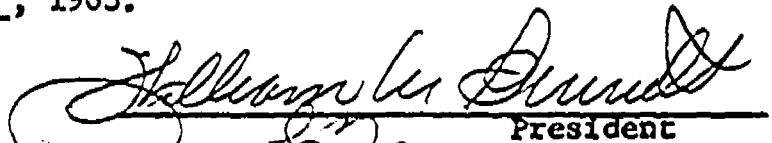
The Commission concludes because of the substantial compliance by respondent with said Decision No. 63237, the errors discovered in his undercharge report and the misunderstanding of respondent as to his duty to report each month his collections of undercharges or lack of collections, additional time should be granted for compliance with such decision.

O R D E R

IT IS ORDERED that the time within which applicant shall comply with ordering paragraph 7 of Decision No. 63237 is extended to and including November 1, 1963.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 1st day of October, 1963.



President



~~Commissioner~~



George L. Trover



Frederick B. Halchoff
Commissioners