

ORIGINAL

Decision No. 63891

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the operations,)
practices, rates and charges of)
L. A. MASON TRUCKING CO., a)
corporation.)

Case No. 7485

Lionel Avis Mason, for respondent.

Robert C. Marks and Richard D. Lowe, for the
Commission staff.

O P I N I O N

Decision No. 65060, dated March 12, 1963 in the above-entitled matter concluded that respondent had violated Sections 3664 and 3737 of the Public Utilities Code and ordered in ordering paragraph 1 that respondent pay a fine to the Commission of \$2,000. Said fine was due and payable no later than August 7, 1963.

By an order dated May 4, 1965, the Commission reopened this proceeding for the limited purpose of receiving evidence to determine respondent's ability to pay said fine and to determine whether it should be modified or rescinded.

A public hearing was held before Examiner Gravelle in Los Angeles on August 19, 1965.

Lionel Avis Mason who was respondent's sole shareholder and guiding force was intensively examined by counsel for the Commission staff with regard to both respondent corporation's and his own personal financial condition, employment, assets and liabilities, insurance, property interests and status as plaintiff or defendant in any legal proceedings.

Respondent corporation was out of business at the time of the original hearing on February 4, 1963. Its last reportable income was for the second quarter of 1962 for which it indicated gross income of \$7,328. Its operating authority, Radial Highway Common Carrier Permit No. 19-53912 had been suspended by the Commission on July 18, 1962, and was revoked at respondent's request on May 16, 1963. The corporate operating equipment, consisting of two trucks and trailers, had been repossessed by Wegge Motors of Pasadena prior to the initial public hearing; there was no deficiency balance due. Mr. Mason testified that pursuant to Decision No. 65060 he checked the corporate accounts and determined that its principal shipper, J. W. Newquist Co., owed it somewhere in the neighborhood of \$12,000 in undercharges, but that said shipper was out of business and "broke" prior to the initial public hearing and that the corporation had collected absolutely no undercharges. He further testified he had contacted an attorney relative to taking action against J. W. Newquist Co., but that no action had been taken because there were no funds to pay the attorney or to file suit. The corporate respondent has presently outstanding obligations against it, excluding the fine, of between \$3,000 and \$4,000.

Mr. Mason is presently employed, and has been for the past thirteen months, as a postal clerk for the United States Postal Service. His pay scale is \$2.48 per hour and his average take home pay is \$340 monthly. His wife is employed and makes about \$200 a month. He has a son who is 26 years of age and a daughter 17 who is presently attending college. There are no savings, securities or other assets with which the fine could be paid. Mr. Mason is able to meet only his regular obligations as

they occur. He stated he could not pay the fine even on an installment basis.

Mr. Mason has had prior experience in the trucking business. He was so engaged in the Sacramento area 18 to 20 years ago. That venture ended in bankruptcy.

A staff representative testified to the status of respondent's operating authority and to the fact that no part of the \$2,000 fine imposed by Decision No. 65060 had been paid as of August 19, 1965.

The Commission has set forth in the decision in Case No. 7242, also issued today, its jurisdictional ability to rescind, alter or amend any of its previously issued orders or decisions. That rationale has application to this proceeding and is hereby adopted.

After consideration the Commission finds that:

1. L. A. Mason Trucking Company has failed to pay the fine of \$2,000 imposed by Decision No. 65060.
2. The operating authority of L. A. Mason Trucking Company was revoked on May 16, 1963.
3. L. A. Mason Trucking Company is financially unable to pay the fine of \$2,000 imposed by Decision No. 65060.
4. L. A. Mason Trucking Company has violated Sections 3564 and 3737 of the Public Utilities Code.
5. L. A. Mason Trucking Company and Lionel Avis Mason, its sole shareholder, should be specifically informed of Section 3775 of the Public Utilities Code which makes the issuance of a permit discretionary where revocation has occurred pursuant to Section 3774.

6. No useful purpose would be served by further efforts to collect the fine of \$2,000 imposed upon L. A. Mason Trucking Company by Decision No. 65060.

Based upon the foregoing findings of fact the Commission concludes that the fine of \$2,000 imposed by Decision No. 65060 should be rescinded and that the revocation of respondent's operating authority should be ratified, but on the basis of respondent's violation of Sections 3664 and 3737 of the Public Utilities Code rather than at respondent's request.

O R D E R

IT IS ORDERED that:

1. The fine imposed upon L. A. Mason Trucking Company by ordering paragraph 1 of Decision No. 65060 is hereby rescinded.
2. The revocation of L. A. Mason Trucking Company's Radial Highway Common Carrier Permit No. 19-53912 on May 16, 1963, made at said respondent's request is hereby ratified on the basis of violation by respondent of Sections 3664 and 3737 of the Public Utilities Code.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent.

The effective date of this order shall be twenty days after the date of such personal service.

Dated at San Francisco, California, this 9th day of November, 1965.

Frederick B. Holbrook
President

George T. Brewer
Commissioner

William L. Dennis
Commissioner