

**ORIGINAL**

Decision No. 70717

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates and practices of HUGH T. WALTERS, doing business as INDUSTRIAL TRANSPORT.

Case No. 7771

Hugh T. Walters, in propria persona.  
David R. Larrouy and Frank J. O'Leary, for  
the Commission staff.

OPINION AFTER FURTHER HEARING

Decision No. 69281, dated June 22, 1965, in the above matter concluded that respondent had violated Section 3664 of the Public Utilities Code, and ordered that respondent pay a fine of \$1,500. Said fine was due and payable no later than August 3, 1965.

On January 11, 1966, the Commission reopened this proceeding for the limited purpose of receiving evidence to determine respondent's ability to pay the fine and to determine whether the decision should be modified or rescinded.

A public hearing was held before Examiner Mooney in Los Angeles on February 23, 1966. The matter was submitted, subject to the late filing of exhibits by the staff relating to respondent's financial condition. The staff has subsequently advised that it will not file any additional exhibits.

Commission records show that a copy of Decision No. 69281 was personally served on respondent on June 29, 1965. It was stipulated that the fine imposed by Decision No. 69281 has not been paid, and that the reports required by said decision have not been filed.

Respondent placed his operating authority (Radial Highway Common Carrier Permit No. 19-56827, Highway Contract Carrier Permit No. 19-49146 and City Carrier Permit No. 19-56828) in voluntary suspension for the period from April 5, 1965 to April 5, 1966. The operating authority has not been activated and therefore has lapsed and terminated pursuant to Sections 3573 and 3943 of the Public Utilities Code.

Respondent was intensively examined by staff counsel with regard to both his and his wife's financial condition, employment, assets and liabilities, insurance, property interests and status as plaintiff or defendant in any legal proceedings.

Respondent testified that the attorney who represented him at the original hearing died in December 1965; that all matters relating to compliance with Decision No. 69281 were being handled by his deceased attorney and are tied up in decedent's estate; and that he has not secured other counsel. Respondent stated that he ceased all trucking operations in December 1964 and has not operated since that date. He stated that all equipment he had operated had been purchased on conditional sales contracts and has been re-possessed. Respondent testified that neither he nor his wife are employed or have any savings, securities, property or other assets whatsoever; that he has a substantial amount of outstanding debts; and that he is in the process of filing a petition in bankruptcy.

Respondent testified that balance due bills were issued by his deceased attorney for the \$718.52 in undercharges established in Decision No. 69281; that approximately \$400 had been collected by the decedent; and that the amount collected was retained by decedent as part payment of legal fees. He stated that a traffic consultant firm was retained to perform the audit of records.

required by the decision, but that it has been unable to collect any of the undercharges disclosed thereby. Respondent testified that no legal action has been taken to recover the uncollected undercharges because he has no funds to pay an attorney or to file suit and that he is unable to pay the fine, either on an installment basis or otherwise.

After consideration the Commission finds that:

1. Respondent has failed to pay the fine of \$1,500 imposed by Decision No. 69231.

2. Respondent placed all of his operating authority in voluntary suspension for the period April 5, 1965 to April 5, 1966. The operating authority has lapsed and terminated.

3. Respondent is financially unable to pay the fine of \$1,500 imposed by Decision No. 69281.

4. Respondent should be specifically informed of Section 3775 of the Public Utilities Code which makes the issuance of a permit discretionary.

Based upon the foregoing findings of fact the Commission concludes that the fine of \$1,500 imposed by Decision No. 69281 should be rescinded.

ORDER

IT IS ORDERED that:

1. The fine imposed upon respondent by ordering paragraph 1 of Decision No. 69281 is hereby rescinded.

2. No new operating authority shall be issued to respondent unless evidence is presented to show that respondent has complied with the order contained in Decision No. 69281.

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 17<sup>th</sup>  
day of MAY, 1966.

Frederick B. Hallock  
President

John E. Mitchell

George G. Grover

Augustus

William L. Bennett  
Commissioners