

Decision No. 77899**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 J & H TRANSPORTATION CO., a California corporation, EDWIN E. WALLACE, WARREN S. HARROD, GLENN V. HOLLINGSWORTH, EVERETT WILLIAM RAY, ROLAND E. VOIGHT, and LOUIS E. MANDERSCHIED, individually and doing business as L.E. MANDERSCHIED TRUCKING.

Case No. 8892

ORDER TO SHOW CAUSE

It appearing that J & H Transportation Co., a California corporation, hereinafter referred to as respondent J&HT, is engaged in the business of transporting property over the public highways of this State for compensation, having been issued a certificate of public convenience and necessity to operate as a cement carrier, and permits to operate as a dump truck carrier, and a radial highway common carrier (file T-71480); and

It further appearing that J & H Company, a California corporation, hereinafter referred to as respondent J&H, is engaged in the business of transporting property over the public highways of this State for compensation, having been issued a radial highway common carrier permit and a dump truck carrier permit (file T-68,257); and

It further appearing that pursuant to Decision No. 76737, dated February 3, 1970, in Case No. 8892, respondent J&HT was found to have violated Sections 453 and 458 of the Public Utilities Code and Items 163 and 165 of Minimum Rate Tariff No. 10; that respondent J&HT was thereby ordered to pay a punitive fine of

\$5,000 and the sum of \$4,671.12 to the other respondents named therein, said sum representing the amount of undercharges determined to be due subhaulers for the carriage of cement; and

It further appearing that because said respondents have substantially the same directors, officers, and shareholders and operate from the same terminal and employ the same persons who perform their duties interchangeably for the respondents' operations, there exists such a unity of ownership, interest, and control between said respondents so as to warrant disregard of the separate entities for the purpose of enforcing lawful orders of this Commission; and

It further appearing that respondent J&HT has not paid the Commission any portion of the punitive fine nor has said respondent paid to the other respondents named therein any portion of the undercharges found due; that respondent J&HT has informed the Commission that its only remaining asset of any value is its cement certificate which respondent J&HT now proposes to split up, and to sell and transfer as set forth in Application Nos. 51808 and 51809 for the total sum of \$5,000; that said respondent would then pay the sum of \$5,000 to the Commission in satisfaction of the punitive fine as so ordered, and that no further assets would be available to satisfy the amount of undercharges due; and

It further appearing that respondents J&HT and J&H, both being fully aware of the order set forth in said decisions, have transferred certain assets of J&HT to J&H without proper compensation, and further have contrived to eliminate all operations of respondent J&HT such that no assets or funds would be available to satisfy the sums found due in said decision; and good cause appearing,

IT IS ORDERED that respondents J&HT and J&H appear before

Examiner Barnett at 10:00 a.m. on Tuesday and Wednesday, the 27th and 28th of January, 1971, in the courtroom of the Public Utilities Commission, State Building, 107 South Broadway, Los Angeles, California, for the following purposes:

1) To determine whether said respondents or anyone else have violated any order or decision of the Commission flowing from Decision No. 76737 or any provision of the Public Utilities Code.

2) For said respondents to show cause, if any should exist, why respondents J&HT and J&H, or either of them, should not be ordered to pay the sums as set forth in Decision No. 76737.

3) For said respondents, their directors and their officers, to show cause, if any should exist, why respondents J&HT, J&H, their directors and their officers, or any of them, should not be adjudged to be in contempt of the Public Utilities Commission of the State of California and punished therefor in the manner prescribed by law.

4) To determine whether any other order or orders that may be appropriate should be entered in the lawful exercise of the Commission's jurisdiction.

IT IS FURTHER ORDERED that a true copy of this order be personally served upon said respondents at least ten (10) days prior to the time hereinabove fixed for the hearing of this order to show cause.

Dated at San Francisco, California, this 4th day
of NOVEMBER, 1970.

[Signature]
Chairman

[Signature]

William J. [Signature]

[Signature]

-3- Simon L. [Signature]
Commissioners