

Decision No. 78336

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 MIKE)
CONROTTO, dba Mike Conrotto)
Trucking, and EMSEE TRANSPORTATION)
COMPANY.)

Case No. 8542

Marvin Handler, Attorney at Law, for
respondents.

William McNertney, Attorney at Law,
for the Commission staff.

FINAL ORDER ON REHEARING

By Decision No. 74034, dated April 30, 1968, the Commission found that Emsee Transportation Company (hereinafter referred to as Emsee) had unlawfully paid loss and damage claims to Kean Distributing Company (hereinafter referred to as Kean) in the amount of \$2,985.10 and that by reason thereof, Emsee was ordered to pay a fine to the Commission of \$500, plus the rebate, for a total amount of \$3,485.10. The decision also required Emsee to take whatever action was necessary, including legal action, to collect said amount from Kean. By Decision No. 75175, dated January 7, 1969, the Commission issued an Interim Order on Rehearing staying the effective date of Decision No. 74034 pending prosecution of a complaint in Superior Court in and for the County of Santa Clara for recovery of the amount rebated.

On January 8, 1971, further hearing was held before Examiner Daly at San Francisco at which time and place the matter was resubmitted.

The record indicates that since the issuance of Decision No. 75175 Mike Conrotto, who controlled Emsee and has since assumed its obligations upon its dissolution, has filed monthly reports to the Commission of the status of the litigation against Kean; that on April 6, 1970, a judgment after trial was rendered in the amount of \$9,187.96 including interest; that all efforts to collect all or any part of the judgment had failed; that on October 15, 1970, pursuant to an order of the court, an examination of Mr. Kean was held before the Superior Court of Los Angeles County relative to the nature, extent and location of his assets; and that although the examination failed to disclose any assets, subsequent negotiations were conducted and an offer of \$4,000 was made in compromise of the judgment.

Respondent Mike Conrotto requests authority to accept the \$4,000 in compromise of the judgment and to pay only one-half of the \$3,485.10 fine.

In support of the request that the fine be reduced by one-half it was argued that respondent Mike Conrotto has incurred legal fees and costs of approximately \$8,500, of which \$2,250 was incurred for services performed at the initial hearings before the Commission; that since that time all other fees and costs expended were incurred solely with respect to collecting from Kean; and that in view of the great expense suffered by respondent Mike Conrotto in his diligent and good faith efforts to comply with the Commission's order, the penalty assessed against him should be ameliorated.

The staff took the position that the judgment may be compromised but that the penalty should be paid in full.

After consideration the Commission adopts the position of the staff and finds that judgment may be compromised for the amount of \$4,000 and that the penalty of \$3,485.10 should be paid in full.

IT IS ORDERED that:

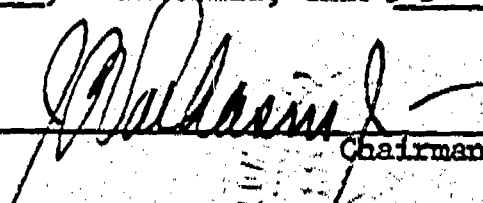
1. Respondents may compromise the judgment herein referred to for the amount of \$4,000.

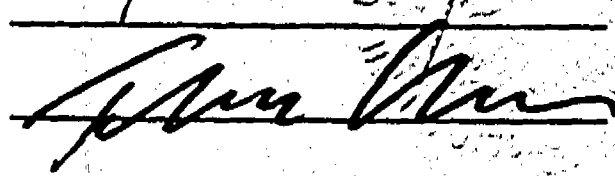
2. Within ten days after the compromise herein authorized respondents shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any instrument executed to effect said compromise.

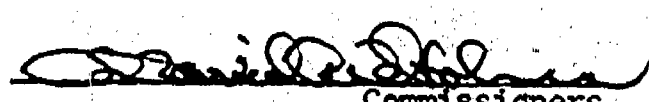
3. Within ten days after the effective date hereof Mike Conrotto, on behalf of Emsee Transportation Company, shall pay a fine of \$3,485.10 to this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondents. The effective date of this order shall be twenty days after the completion of this service.

Dated at San Francisco, California, this 22nd day of FEBRUARY, 1971.



Chairman




Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.