

ORIGINAL

Decision No. 79984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of OVELL WHITE dba
O. WHITE TRUCKING, for reinstatement
of radial highway common carrier,
highway contract carrier, and dump
truck carrier permits.

Application No. 53150
(Filed February 15, 1972)

Mrs. Thelma White, for Ovell White, applicant.
William C. Bricca, Attorney at Law, for the
Commission staff.

O P I N I O N

By the instant application Ovell White, doing business as O. White Trucking, requests reinstatement of radial highway common carrier, highway contract carrier and dump truck carrier permits, which were revoked by Commission Resolution No. 16737 dated June 15, 1971.

A public hearing was held before Examiner Daly on March 20, 1972, at San Francisco and the matter was submitted.

The record indicates that on November 23, 1970, the Commission mailed a request for equipment information to 18,000 permit holders, including applicant. The notice contained a warning that "Failure to comply with the request by February 15, 1971, will result in a \$25 penalty and may result in suspension or revocation of your operative authority(ies)." Of the total permit holders notified 2,354 failed to respond, including applicant. A second notice was mailed on March 19, 1971, and informed the delinquent permit holders that a \$25 fine had been assessed and placed them upon notice of possible suspension and revocation for non-compliance. On June 15, 1971, the Commission by certified letters notified 135 permit holders who failed to respond to the second notice, including applicant, that the Commission by Resolution No. 16737 had suspended their

permits as of June 15, 1971, and would revoke said permits effective July 15, 1971, unless on or before that date the fine of \$25 was paid and the requested information had been filed with the Commission. On July 9, 1971, the letter mailed to applicant's post office box in Belmont was returned by the post office as unclaimed. The letter was remailed first class on July 12, 1971, and has not been returned. On August 16, 1971, applicant filed with the Commission the requested information along with a check for \$25 covering the assessed penalty.

The staff opposes the reinstatement of applicant's permits because it contends that applicant has a long history of delinquency with respect to compliance with Commission regulations. Exhibit 2 discloses that since 1949 applicant has received 13 notices of suspension for failure to comply with Commission rules and requirements relating to the timely payment of quarterly fees and the maintenance of adequate liability insurance. Following each notice there was subsequent compliance by applicant. The staff takes the position that since the permits were revoked on July 15, 1971, following notice, applicant's subsequent compliance on August 16, 1971, should not be considered for the purpose of reinstating the permits, particularly in view of his past history of delinquency. The staff believes that applicant should be required to file for new permits and pay the prescribed filing fees in the amount of \$1,500.

The wife of applicant appeared on his behalf and testified that because of a heart condition applicant has been under the doctor's care and has been unable to work; that their equipment has been under lease; that she performed the office work relating to her husband's carrier operations; that because of the demands upon her time during her husband's illness and in meeting her obligations as a housewife and mother she was unable to check the post office box for mail; that if the permits are reinstated she hopes with the help of her oldest son to again commence carrier operations; and that the payment of \$1,500 in filing fees would be too much of a financial burden if applicant is required to file applications for new permits.

After consideration the Commission finds that:

1. On November 23, 1970, the Commission by first class mail sent a request to applicant for equipment information. The request contained a notice that failure to provide the information by February 15, 1971, would lead to a \$25 penalty and possible suspension or revocation. The request was sent to applicant's post office box in Belmont and was never returned.

2. On June 15, 1971, the Commission by certified mail sent a copy of Resolution No. 16737 to applicant's post office box address. Resolution No. 16737 suspended applicant's permits as of June 15, 1971, and revoked said permits as of July 15, 1971, unless before that date there was compliance with the requirements of the notice of November 23, 1970, and the penalty of \$25 was paid. The notice was returned by the post office on July 9, 1971, as unclaimed. It was remailed first class on July 12, 1971, and has never been returned.

3. On August 16, 1971, applicant filed the information as requested by the notice of November 23, 1970, together with a check of \$25 for the fine. The \$25 was deposited to the General Fund.

4. Because of applicant's poor health, his wife, who does the office work, claimed that she was unable to check the mail at the post office box and that the first time she was aware of the problem was the notice of suspension and revocation, which had been remailed on July 12, 1971.

5. Applicant's permits should be reinstated after any payments or fees due have been paid to the Commission.

The Commission therefore concludes that applicant's permits should be reinstated subject to the conditions set forth in the order herein.

Applicant is placed upon notice that further delinquency in compliance with Commission rules and regulations will result in Commission action leading to revocation of his permits.

O R D E R

IT IS ORDERED that the radial highway common carrier, highway contract carrier and dump truck carrier permits issued to Ovell White, doing business as O. White Trucking, and revoked by Commission Resolution No. 16737 dated June 15, 1971, are hereby reinstated, providing all payments or fees due the Commission have been paid within sixty days after the effective date of this order; otherwise this order is vacated, and the permits shall stand revoked.

The effective date of this order shall be five days after the date hereof.

Dated at San Francisco, California, this 25th
day of APRIL, 1972.

William J. Ayres Chairman
J. P. Vukasin, Jr.
James L. Sturgeon
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.