

ORIGINAL

Decision No. 81348

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operation,
rates, charges, and practices of
MICHAEL ALFRED POPPERT, dba
POPPERT TRUCKING COMPANY, F. W.
FOSTER, dba FOSTER FOREST PRODUCTS,
VANCE LUMBER CO., a California
corporation, and INLAND LUMBER CO.,
a California corporation.

Case No. 9484
(Filed December 12, 1972)

O P I N I O N

This is an investigation of the rates, operations, charges, and practices of Michael Alfred Poppert, dba Poppert Trucking Company (Poppert),^{1/} for the purpose of determining whether he violated Sections 3667, 3668, and 3737 of the Public Utilities Code by transporting free loads and charging less than minimum rates in connection with transportation performed for F. W. Foster, dba Foster Products, Vance Lumber Co., a California corporation, and Inland Lumber Co., a California corporation.

Facts

A written stipulation was filed by Poppert and the Commission staff on March 8, 1973. The stipulation resolves all issues herein. Following is a summary of the stipulated matters which we find to be facts:

1. Poppert operates pursuant to radial highway common carrier and highway contract carrier permits.
2. Poppert's principal place of business is in the city of Industry. ✓
3. Between January 8, 1971 and September 9, 1971, Poppert transported for the respondent shippers twenty truckloads of property, charges for which were neither billed nor collected until well

^{1/} On January 9, 1973 the respondent carrier filed a resolution of the Board of Directors of Poppert Trucking, Inc. authorizing the corporation to be substituted as a respondent in this case in place of Michael Alfred Poppert, dba Poppert Trucking Company.

after November 18, 1971, the date the Commission's representative first contacted Poppert at the outset of his investigation herein.

4. The applicable minimum charges for the 20 shipments was \$6,750.

5. Poppert's failure to timely bill for each of the 20 shipments was done with the purpose of assisting the respondent shippers to obtain Poppert's transportation services for less than the lawfully prescribed minimum rates.

6. The transportation charges for the 20 shipments have now been collected by Poppert from the respondent shippers.

7. A public hearing is not necessary.

Conclusions

1. Poppert violated Section 3668 of the Public Utilities Code.

2. Poppert should pay a fine pursuant to Section 3774 of the Public Utilities Code in the amount of \$2,500.

3. The Commission could impose a fine, pursuant to Section 3800 of the Code, equal to the undercharges of \$6,750. However, such an additional fine, in view of the stipulation of the parties, would not be appropriate in this case.

4. Poppert should be directed to cease and desist from violating the minimum rates and rules established by the Commission.

O R D E R

IT IS ORDERED that:

1. Poppert Trucking, Inc., shall pay a fine of \$2,500 to this Commission on or before the fortieth day after the effective date of this order.

2. Said respondent shall cease and desist from transporting property or performing any service in connection therewith without assessing and collecting the applicable minimum rates and charges for such services in the manner prescribed by the Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Michael Alfred Poppert. The effective date of this order, as to this respondent, shall be

twenty days after completion of personal service. The Secretary is further directed to cause service by mail of this order to be made upon all other respondents. The effective date of this order, as to these respondents, shall be twenty days after completion of service by mail.

Dated at San Francisco, California, this 8th
day of MAY, 1973.

William L. Spurgeon
President
William Spurgeon
[Signature]
[Signature]
Commissioners

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