

ORIGINAL

Decision No. 82433

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own Motion into the operations, rates, charges and practices of GARY SCANNAVINO, an individual doing business as CHEROKEE FREIGHT LINES, UNITED VINTNERS, INC., a corporation, and INGLENOK VINEYARDS.

Case No. 9584
(Filed July 10, 1973)

Loughran, Berol & Hegarty, by Marshall G. Berol,
Attorney at Law, for Gary Scannavino, dba
Cherokee Freight Lines, respondent.
Vincent V. MacKenzie, Attorney at Law, and Edward H.
Hjelt, for the Commission staff.

O P I N I O N

After duly published notice, public hearing of this matter was held before Examiner Peeters in San Francisco on October 9, 1973. The matter was submitted on a stipulation which was placed in evidence by the parties as Exhibit No. 1. The stipulation was executed by counsel for Gary Scannavino and staff counsel. It affirmed that the staff's allegations in the Order Instituting Investigation were all true and correct; that the staff's ratings of the transportation performed were true and correct and that the total undercharges are \$5,680.28.

The stipulation provided for a fine of \$500 under the provisions of Section 3774, and for a fine of \$5,680.28 (the amount of the undercharges) under the provisions of Section 3800 of the Public Utilities Code.

In view of the record and the stipulation filed herein the Commission finds:

1. Respondent operates under a permit issued by this Commission as a radial highway common carrier.

2. Respondent was served with the appropriate tariffs and supplements thereto pertaining to the transportation performed.

3. Respondent employs 10 drivers, 1 mechanic, and 2 office personnel. His principal place of business is Stockton, and he operates 8 tractors and 14 sets of trailers.

4. Respondent's gross operating revenue for the year ending December 31, 1972 was \$652,422.

5. Respondent, through misunderstanding, charged and collected a lesser sum for transportation of property than the applicable charges prescribed in Minimum Rate Tariff 2.

6. Upon notification by the staff of the undercharges, respondent promptly reviewed the situation and, upon determination that the staff's audit adjustments were correct, promptly sent balance due bills to the shipper, which bills were promptly paid in full.

7. Respondent has had no prior undercharge violations.

The Commission concludes that respondent has violated Sections 3664 and 3737 of the Public Utilities Code and should pay a fine pursuant to Section 3800 of the Code in the amount of \$5,680.23 and in addition thereto should pay a fine pursuant to Section 3774 of the Code in the amount of \$500.

O R D E R

IT IS ORDERED that:

1. Respondent Gary Scannavino shall pay a fine of \$6,180.28 to this Commission within ten days after the effective date of this order.

2. Respondent shall cease and desist from charging and collecting compensation for the transportation of property or for any service in connection therewith in a lesser amount than the minimum rates and charges prescribed by this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent Gary Scannavino and to cause service by mail of this order to be made upon all other respondents. The effective date of this order as to each respondent shall be twenty days after completion of service on that respondent.

Dated at San Diego, California, this 5th
day of FEBRUARY, 1974.

James L. Sturgeon
President
William J. Simpson
J. Williams
Alfred
Edward
Commissioners