

Decision No. 85770

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ARTISAN INDUSTRIES, INC., a  
corporation,

Complainant,

vs.

JERRY S. BAUMFELD, also known as  
JERRY BAUMFIELD, doing business  
under the fictitious name of  
CONTINENTAL VAN LINE, and ELSIE  
BAUMFELD,

Defendants.

Case No. 9950  
(Filed July 23, 1975)

Ben Munn, for complainant.  
Jerry Baumfeld, for defendants.

O P I N I O N

The complaint alleges that defendants delivered shipments for complainant, accepted money from the consignee, and failed to remit the money collected to complainant. It is further alleged that defendant Baumfeld operates under a radial highway common carrier permit and a household goods carrier permit; that he does not have authority to handle C.O.D. shipments and has never had a C.O.D. bond on file. Defendant Baumfeld asked for an extension of time in which to plead, but never filed an answer. A public hearing was held on January 26, 1976 in Los Angeles, before Examiner Fraser.

The facts are not disputed. On May 7, 1975, Baumfeld delivered two grandmother clocks for complainant and collected \$653 from the consignee for the account of complainant; on May 8, 1975 defendant delivered two grandfather clocks and collected \$800 from the consignee for the account of complainant. The \$1,453 collected was not remitted to complainant and the latter made a series of phone calls which were disregarded. The last call was on June 11, 1975 and was not returned.

Munn, the owner and manager of complainant, then filed this complaint with the Public Utilities Commission and later complained to the Los Angeles Police Department, since the money was illegally held. A detective visited Baumfeld on October 28, 1975 and the latter presented a certified check for \$1,453, which was turned over to complainant. Munn testified that he used Baumfeld's service for more than a year and a half and found it excellent. His business was being liquidated in May 1975, however, and the retention of his money caused maximum inconvenience. He requested a hearing to confront defendant and find out why the latter refused to remit the money collected.

Baumfeld testified that the money was retained as a result of his frustration over complainant's delay in paying bills. Payment was invariably late and some accounts were delinquent for thirty days. This policy finally prompted defendant to hold the money due complainant to teach the latter a lesson. Defendant testified that he does not normally collect C.O.D. shipments and he pays his bills when they are due. Munn advised he was not aware that bills had been delinquent. The parties conferred and it appeared that complainant's office personnel may have been at fault.

#### Findings

1. Defendant Baumfeld made two C.O.D. deliveries for complainant during May 1975 and kept the money collected.
2. Baumfeld has never had a C.O.D. bond on file.
3. The money owed was paid to complainant by certified check on October 28, 1975, after a police complaint was filed and a Los Angeles detective visited Baumfeld.

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The complaint has been satisfied.

5. Defendant must refrain from handling C.O.D. shipments until defendant complies with applicable Commission rules and regulations.

Conclusions of Law

1. Defendant should be ordered to cease hauling C.O.D. shipments.
2. The complaint should be dismissed.

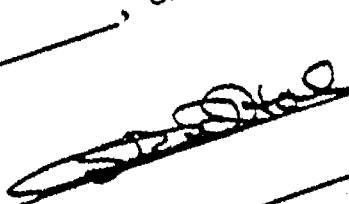
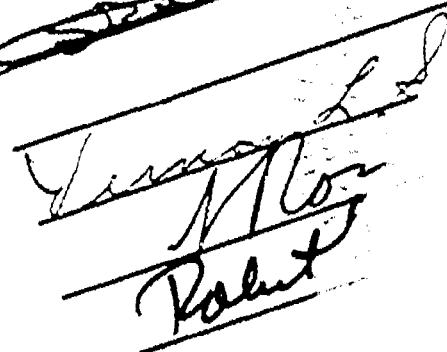
O R D E R

IT IS ORDERED that:

1. Jerry Baumfeld shall cease and desist from transporting "Collect on Delivery" shipments until such time as he complies with applicable Commission rules and regulations.
2. Case No. 9950 is dismissed.

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

Dated at San Francisco, California, this 17th day of MAY, 1976.

  
  
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*CORRECTION*

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

4. The complaint has been satisfied.

5. Defendant must refrain from handling C.O.D. shipments until defendant complies with applicable Commission rules and regulations.

Conclusions of Law

1. Defendant should be ordered to cease hauling C.O.D. shipments.

2. The complaint should be dismissed.

O R D E R

IT IS ORDERED that:


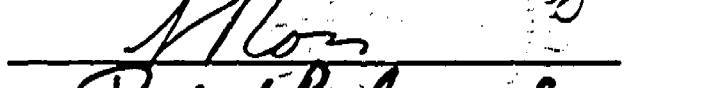

1. Jerry Baumfeld shall cease and desist from transporting "Collect on Delivery" shipments until such time as he complies with applicable Commission rules and regulations.

2. Case No. 9950 is dismissed.

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

Dated at San Francisco, California, this 15th  
day of MAY, 1976.

  
President

  
  
  
Commissioners

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