

6/21 CA-5

ALJ/RTB/cac

Decision 89 06 036 JUN 21 1989

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 Santos Mario )  
Cerro dba Cerro Trucking. )

I.88-05-011  
(Filed May 11, 1988)

Santos M. Cerro, for himself, respondent.  
Lawrence O. Garcia, Attorney at Law, and  
William Waldorf, for the Transportation  
Division.

OPINION

Santos Mario Cerro, doing business as Cerro Trucking, of Newark, California, is engaged in the business of transporting property over the public highways of this state for compensation. Cerro operates pursuant to a highway contract carrier permit issued November 16, 1983, revoked on May 15, 1986, and reinstated February 26, 1987.

A Transportation Division review of relevant documents and records showed that Cerro may have violated Public Utilities (PU) Code §§ 3775 and 3631.5. On July 2, 1987, a citation forfeiture with a fine of \$750 was served on Cerro. Cerro denied the citation.

On May 11, 1988, the Commission issued its investigative order to determine:

1. Whether Cerro has violated PU Code §3775 by conducting operations as a highway contract carrier after the revocation of his permit on May 16, 1986.
2. Whether Cerro has violated PU Code § 3631.5 by conducting for-hire transportation of hazardous materials without adequate insurance coverage.

3. Whether any or all of Cerro's operating authority should be cancelled, revoked or suspended, or in the alternative, whether a fine should be imposed under PU Code § 3774.
4. Whether Cerro should be ordered to cease and desist from any further violations of the PU Code.
5. Whether any other order(s) that may be appropriate should be issued in the lawful exercise of the Commission's jurisdiction.

The scope of this investigation includes, but is not limited to, transportation of aqua ammonia (ammonium hydroxide) performed by Cerro for Hilgo Transport Inc. from May 15, 1986 to February 26, 1987, the period of revocation.

Procedural Background

A prehearing conference was held July 11, 1988 before Administrative Law Judge (ALJ) Robert T. Baer, during which Cerro and the Transportation Division reached an agreement in principle regarding the settlement of the case. Transportation Division prepared a written settlement agreement and sent it to Cerro for his signature, but he did not return it.

Upon the request of the Transportation Division the case was set for evidentiary hearing on March 31, 1989, on which date the parties appeared. Further settlement negotiations were conducted off the record with the assistance of the ALJ. The parties agreed that the following Transportation Division exhibits should be received:

- Exhibit 1: Report of Bruce Thomas, Associate Transportation Representative, regarding Cerro Trucking, T-142,472.
- Exhibit 2: Order of Suspension of Permit dated October 7, 1988 and effective October 28, 1988 with supporting documents showing cancellation of

insurance effective October 28,  
1988.

Exhibits 1 and 2 were received by stipulation.

Settlement Agreement

The parties further agreed that:

1. Cerro's operating permit should be voluntarily suspended until March 30, 1990, under PU Code § 3771(a);<sup>1</sup>
2. Cerro should pay to the Commission forthwith the permit suspension fee of \$50 required by PU Code § 3771(b).
3. Cerro should pay to the Commission a fine of \$750 under PU Code § 3774 in installments of \$50 per month beginning 30 days after Cerro reinstates his operating authority.

The above stipulations were placed on the record, and the case was submitted. Cerro paid the permit suspension fee of \$50 on March 31, 1989.

Findings of Fact

1. The settlement agreement is reasonable.
2. Cerro paid the permit suspension fee on March 31, 1989.

Conclusions of Law

1. The settlement agreement should be adopted.
2. Cerro should be allowed to voluntarily suspend his permit.

---

1 "The Commission may, at the request of any highway permit carrier, suspend the operating permit of the carrier for a period of time not to exceed one year during which it is unlawful for the carrier to conduct any operations as a highway permit carrier. The Commission shall not grant consecutive suspensions to any highway permit carrier." (§ 3771(a).)

3. Cerro should be ordered to pay a fine of \$750 under PU Code § 3774 in installments of \$50 per month beginning 30 days after he reinstates his permit.

4. Since this case has been disposed of by stipulation, the following order should be effective immediately.

ORDER


IT IS ORDERED that Santos Mario Cerro, doing business as Cerro Trucking, shall pay to the Transportation Division of this Commission a fine of \$750, payable in installments of \$50 per month, beginning 30 days after Cerro reinstates his highway contract carrier permit. That permit shall be voluntarily suspended under PU Code § 3771(a) until March 30, 1990, when, unless it has been reinstated before that date, it shall be revoked. In the event Santos Mario Cerro fails to comply with the terms of this decision, his permit will be subject to revocation 30 days after any installment payment becomes delinquent.

This order is effective today.

Dated JUN 21 1989, at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Victor Weisner, Executive Director

pe