

Decision 90 08 009

AUG 8 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Remus David Moss, dba Moss Moving)	
Service, for an exemption from Rule 7)	Application 89-12-009
and 15 which requires an increase in)	(Filed December 5, 1989)
Cargo Insurance of \$20,000.)	

Remus David Moss, for himself, applicant.
Alberto Guerrero, Attorney at Law, for the
 Transportation Division.

O P I N I O N

Remus David Moss (Moss), doing business as Moss Moving Service, requests that the Commission authorize him to continue to carry \$5,000 household goods cargo insurance rather than the \$20,000 specified in General Order (GO) 136-B and to self-insure.

At the request of the Transportation Division (TD), a duly noticed public hearing was held in San Francisco on March 13, 1990 and the matter was submitted for decision on April 5, 1990.

Advice of Participation.

The Advice of Participation planned by TD sets forth the issues before the Commission in this application, stating:

"Staff has reviewed the application. The application seeks relief from the new increase of Cargo Insurance of \$20,000 to the previous required amount of \$5,000 thru the life of the Permit.

"Senate Bill 210 (Chapter 259, Statutes 1989) effective January 1, 1990, among other things, amended Public Utilities Code Section 5161(c) to read:

'The commission shall require all household goods carriers to procure and continue in effect during the life of the permit cargo insurance in the amount of twenty thousand dollars (\$20,000). However, upon a

showing before the commission by a household goods carriers that a lesser amount of cargo insurance adequately protects the public, and a finding by the Commission to that effect, the commission may authorize the carrier to procure and continue in effect during the life of the permit the lesser amount of insurance.'

"As a result, effective January 1, 1990, household goods carriers must maintain cargo insurance coverage in the amount of \$20,000 or more per shipment unless a lesser amount has been authorized by formal Commission action.

"Pursuant to Public Utilities Code Section 5161(c) as amended by Senate Bill 210, General Order 136 was amended by Commission Resolution 18330 on December 18, 1989 to require household goods carriers to provide cargo insurance coverage of at least \$20,000 per shipment unless a lesser amount has been authorized by formal Commission action in response to an application filed in accordance with the Commission's Rules of Practice & Procedure.

"Staff recommends that A89-12-009 should be set for formal hearing. A89-12-009 is the first such request for self-insurance under the new Cargo Insurance requirement of Senate Bill 210. There is no precedent on self-insured of Cargo Insurance and the record should be developed with regard to future filings.

"The applicant is requesting to file thru their business bank, Wells Fargo, a form or bank statement to secure \$5,000 on deposit in the name of Public Utilities Commission strictly for the purpose of cargo insurance to the General Public at large making the applicant self-insured thru the trust deposit.

"A member of the Tariff and License Branch will attend the hearing to develop the record. It is requested that the a member of the Legal Division participate in the proceeding."

Lesser Amount of Cargo Insurance

Moss testified that he has conducted business on his own account as a household goods carrier for five and a half years. Prior to that time, he was employed by large moving companies for some 20 years.

Since going into business for himself, applicant has maintained cargo insurance for \$5,000, as required, and has not suffered any claim against his insurance.

Moss states that his business is developed through referrals by satisfied customers and that it is conducted solely by applicant with the assistance of his son as an employee.

Applicant believes that the \$5,000 coverage he has been carrying is adequate to satisfy any claim which might arise in the course of a household move. Even as an employee for major moving firms, applicant states that he has not experienced a claim which exceeds \$250. Applicant's testimony, based upon his years of experience, is that the average value of household goods which he moves is less than \$5,000. In fact, applicant does not contract to transport goods if additional insurance coverage is required as the cost is exorbitant, in the witness' opinion.

Moss operates with one truck which is 24 feet long on the floor with the motor over the cab. It will carry the contents of a formal three-bedroom house. It contrasts with the larger companies' 40-foot vans which can accommodate three or four families. Applicant states that he knows of no other licensed mover who operates with but one truck.

TD offered no objection should the Commission find that \$5,000 cargo insurance adequately protects the public in applicant's case.

Self-Insurance

In addition to his request that he be permitted to carry a lesser amount of insurance than the \$20,000 required by GO 136-B, Moss seeks permission to become self-insured.

TD opposes self-insurance in the present circumstances, noting the substantial practical difficulties of such a program.

TD quotes GO 136-B's requirement that the method of consumer protection be by the guarantee of qualified companies licensed to write insurance within the State of California. GO 136-B provides, in part, as follows:

"The protection required under Section 1 hereof shall be evidenced by the deposit with the Public Utilities Commission, covering each vehicle used or to be used in conducting the service performed by each carrier, of a certificate of cargo insurance, issued by a company licensed to write such insurance in the State of California, or by nonadmitted insurers subject to Section 1763 of the Insurance Code, in lieu of the original policy if such a policy meets the rules promulgated therefor by the Commission, or of a bond of a surety company licensed to write surety bonds in the State of California."

While paragraph 9(a) of GO 136-B provides for the furnishing of equivalent protection to the public as a self-insurer, applicant's proposal that the Commission accept a certificate of deposit or trust receipt in its name in lieu of a certificate of cargo insurance presents questions both of law and of administration which cannot be resolved in this proceeding.

After the close of hearings in this matter, applicant wrote the administrative law judge that he was working with his local assemblyman's office to adjust the procedure now available in filing cargo insurance forms with the Commission and requested a possible extension of time to make his program workable.

We decide the question of the level of protection required of Moss today and leave the matter of the possible alternatives to established methods of self-insurance to a later time on a more considered record.

Findings of Fact

1. Moss has been a licensed household goods mover for more than five years during which time he has maintained cargo insurance in the amount of \$5,000.

2. No claims have been filed with applicant's insurance carrier.

3. Applicant has one 24-foot van capable of carrying the contents of one three-bedroom home. Applicant rarely if ever assumes responsibility for shipments valued at more than \$5,000.

4. Applicant and his employee-son perform all the duties relating to the Moss moving business.

5. Effective January 1, 1990, household goods carriers must maintain cargo insurance coverage for \$20,000 or more per shipment unless a lesser amount has been authorized by formal Commission action.

6. If applicant accepts responsibility for shipments valued in excess of \$5,000, he must first obtain additional insurance in accordance with requirements of paragraph 2 of GO 136-B.

7. The record in this proceeding is inadequate to a determination of possible alternatives to established methods of self-insurance. ✓

8. To ensure continuity of insurance, this order should be effective today.

Conclusion of Law

An amount of cargo insurance of \$5,000 for applicant adequately protects the public.

O R D E R

IT IS ORDERED that:

1. Remus David Moss is authorized to procure and continue in effect, as long as he may be engaged in the transportation of used property under CAL T 145925, adequate protection for not less than

\$5,000 per shipment to compensate a shipper or consignee for any loss or damage to property for which the carrier may be held legally liable in connection with such transportation service.

2. In accordance with paragraph 2 of GO 136-B, Remus David Moss shall not assume responsibility for a shipment over \$5,000, unless prior to the commencement of his service, he has in his possession written acknowledgement from his insurance carrier that sufficient additional cargo insurance has been obtained to cover the responsibility to be assumed.

3. Within 60 days of the effective date of this order, Remus David Moss's insurance carrier shall fill proof of insurance coverage on Form TL 672 (Rev. 11/89) "Certificate of Cargo Insurance".

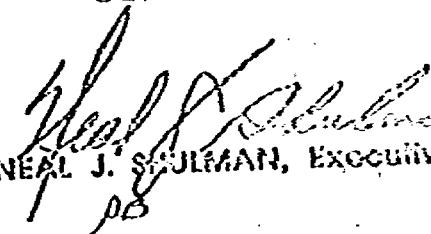
4. The application is granted as set forth above. To the extent not granted, it is denied.

This order is effective today.

Dated AUG 8 1990 , at San Francisco, California.

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

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


NEAL J. SCHULMAN, Executive Director