

L/bjk \*

Decision 91-09-039 September 6, 1991

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
own Motion into the refusal and )  
failure of Brake Meier Truckload, )  
Inc. to comply with Decision No. )  
90-08-019. )

I.89-09-005  
(Filed September 7, 1989)

ORDER REOPENING INVESTIGATION  
AND ORDER TO SHOW CAUSE

Brake Meier Truckload, Inc., a highway carrier doing business at 14640 Randall Avenue, Fontana, California 92335 was ordered in Commission Decision No. (D.) 90-08-019 to pay a fine of \$4,000 to the Commission in four consecutive monthly installments of \$1,000 each, the first installment due September 8, 1990. Brake Meier was further ordered that it remained responsible for pursuing, including legal action if necessary, and collecting the amounts due from Marubeni, Shimizu, and Gipson if any of them did not pay amounts due directly to the Commission at the times specified for payment. These respondents have complied with the decision and paid fines of \$2,000, \$4,425 and \$1,508.34 each, respectively. However, the fine imposed upon Respondent Brake Meier Truckload, Inc., payable in four consecutive monthly installments of \$1,000 each commencing September 8, 1990, has not been paid.

Based on the statements in the attached affidavit, the Commission hereby reopens OII 89-09-005. In addition, we expect Brake Meier Truckload, Inc. to show cause why its authorities should not be revoked for failure to comply with the provisions of D.90-08-019, relative to payment of a \$4,000 fine to the Commission. The operating authorities of Brake Meier Truckload, Inc. were suspended February 14, 1991 for failure to remit quarterly fees.

Respondent Brake Meier Truckload, Inc. is placed on notice that during the period of suspension, or after the revocation of its certificate and permits, it is unlawful for a highway carrier to conduct any operations as such a carrier. P.U. Code, Sections 1063 and 3775.

Respondent may appear and show cause why its operating authorities should not be cancelled or revoked for failure to comply with the terms and provisions of D.90-08-019.

A public hearing in this matter shall be held before an Administrative Law Judge of the Commission at a time and place to be determined, at which time Respondent may appear and show cause why we should not enter an order revoking its operating authorities.

The Executive Director is directed to cause a certified copy of this order to be personally served on Respondent Brake Meier Truckload, Inc.

This order is effective today.

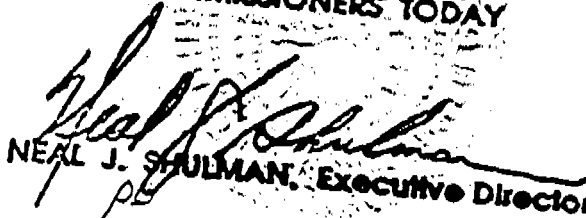
Dated September 6, 1991 at San Francisco, California

I abstain.

G. MITCHELL WILK  
Commissioner

PATRICIA M. ECKERT  
President  
JOHN B. OHANIAN  
DANIEL WM. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

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

  
NEAL J. SHULMAN, Executive Director

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
own Motion into the refusal and ) I.89-09-005  
failure of Brake Meier Truckload, ) (Filed September 7, 1989)  
Inc. to comply with Decision No. )  
90-08-019. )  
\_\_\_\_\_ )

AFFIDAVIT IN SUPPORT OF ORDER TO SHOW CAUSE

My name is William G. Waldorf. I am a Senior Transportation Representative for the Commission.

Respondent Brake Meier Truckload, Inc. was ordered by CPUC Decision No. 90-08-019, dated August 8, 1990, to perform certain acts. Specifically, Brake Meier Truckload, Inc. was ordered to:

1. Pay a fine of \$4,000 to the Commission in four consecutive monthly installments of \$1,000 each, the first installment due 30 days after the effective date of the order.

2. Brake Meier remains responsible for pursuing, including legal action if necessary, and collecting amounts due from Marubeni, Shimizu, and Gipson if any of them do not pay amounts due directly to the Commission at the times specified for payment.

Records maintained by the Executive Director of the Commission indicate that the Decision and Order was deposited in the mail at San Francisco and sent to Milton Flack, Attorney at Law, counsel of record for Brake Meier Truckload, Inc. on August 9, 1990.

By letters dated November 13, 1990 and January 7, 1991, the PUC staff advised Brake Meier's counsel, Milton Flack, of his client's failure to comply with Ordering Paragraphs of the Decision. Copies of these letters were also mailed to Brake Meier.

On March 6, 1991 the staff received a letter from Brake Meier's representative, Milton Flack, which stated that he no

I.89-09-005 L/ bjk

longer represents Brake Meier Truckload, Inc. in connection with I.89-09-005, and that all further communications and correspondence concerning same should be sent directly to Brake Meier Truckload, Inc.

Service of the Decision and Order was made on Brake Meier by personal service of a copy upon Howard B. Carpenter, President of Brake Meier Truckload, Inc. on March 27, 1991. Howard B. Carpenter passed away on June 14, 1991.

A thorough review of the records of the Commission indicates that no payment of the fine specified in Ordering Paragraph One has been received by the Commission.

I hereby declare under penalty of perjury that the statements in this affidavit are true to the best of my knowledge and belief.

Dated August 12, 1991

William G. Waldorf

William G. Waldorf  
Senior Transportation Representative