

ORIGINAL

Decision No. 88892 MAY 31 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application
of Thomas L. Manney doing
business as Black Self Help
Company for reinstatement of a
revoked Household Goods Carrier
Permit.

Application No. 57693
(Filed November 18, 1977)

Nevin & Nevin, by Edward J. Nevin, Attorney
at Law, for applicant.
Peter G. Fairchild, Attorney at Law, for
the Commission staff.

O P I N I O N

Applicant seeks reinstatement of his household goods carrier permit. Public hearing was held before Administrative Law Judge O'Leary at San Francisco on February 6 and 7, 1978. The matter was submitted on the latter date.

Applicant was issued a permit to operate as a household goods carrier on April 30, 1970. On August 12, 1975, a notice was sent to applicant advising him that his liability insurance would terminate on September 7, 1975 and the permit would be suspended effective September 7, 1975 unless adequate liability insurance was deposited with the Commission prior to September 7, 1975. The notice also advised that if the required insurance was not filed by October 7, 1975, the suspended permit would be revoked. The insurance was not deposited by October 7, 1975. The permit was suspended effective September 7, 1975 but was not revoked. A notice identical to the notice of August 12, 1975 except that the word suspended was stamped on it in bold letters was sent to applicant on September 10, 1975. A copy of the notice sent to applicant on September 10, 1975 was received in evidence as Exhibit 1.

Pursuant to Resolution No. 17757 dated April 13, 1976, applicant's permit was again suspended effective May 13, 1976 for failure to file Form HG 2 and pay a \$25 fine. The resolution provided that the suspended operating authority would be revoked effective June 14, 1976 unless the fine was paid and the HG 2 form filed prior to June 14, 1976. The resolution further provided that the suspension and revocation would become operative unless prior to the suspension date the carrier requested a public hearing be held. Applicant did not pay the fine, file the required report, or request a public hearing. As a result the suspension and revocation were effective on the dates set forth in the resolution. A copy of Resolution No. 17757 was mailed to applicant on April 13, 1976. Applicant's permit was still in suspension for failure to have adequate liability insurance on file on the dates of the suspension and revocation, for failure to file the HG 2 report, and pay the \$25 fine.

On May 19, 1976 a transportation analyst of the Commission's staff filed a complaint in the Municipal Court, Northern Judicial District, County of San Mateo, against applicant for conducting operations as a household goods carrier after revocation or suspension by the Public Utilities Commission in violation of Section 5286 of the Public Utilities Code. On July 27, 1976 applicant was found guilty and was placed on three years Summary Probation. On December 3, 1976 an Affidavit of Summary Probation Violation and Motion for Issuance of Bench Warrant was filed with the court. On April 5, 1977 applicant was found guilty and sentenced to six months in jail, all but sixty days suspended. On February 2, 1978, another Affidavit of Summary Probation Violation and Motion for Issuance of Bench Warrant was filed with the court. The Commission takes official notice that on March 21, 1978 applicant appeared in court and admitted violation of probation. On March 28, 1978 applicant's previous sentence was reimposed as follows: six months consecutive less sixty days previously served, all but sixty days suspended.

Section 5135 of the Public Utilities Code requires an applicant for a permit to operate as a household goods carrier to establish knowledge and ability to engage in business as a household goods carrier by examination. Applicant impersonated another applicant, namely, Salaam Ali Sharif at such an examination held on October 25, 1977 in Los Angeles.

On June 23, 1976 applicant appeared at the Executive Director's office who referred him to the Commission's Director of Transportation. A conference attended by the Director of Transportation, a senior transportation representative, and the applicant was held wherein applicant was informed of outstanding matters which would have to be settled before reinstatement of his permit could be considered. Applicant has resolved all outstanding matters except having on file Public Liability and Property Damage insurance which of course is not necessary until a decision is rendered with respect to reinstatement of his permit.

Applicant testified that in May 1974 he was arrested in connection with the Zebra case in San Francisco, and after one week in jail the charges were dismissed. Subsequently, three defendants were tried and convicted and are now serving life sentences. Some of those defendants were employees of applicant at one time or another. During the trial which lasted approximately one year applicant was called as a witness twice. At the time of his arrest he had approximately forty moving jobs scheduled, of which all but two or three were canceled subsequent to his arrest. The business went downhill from there. Shortly after his arrest two of applicant's trucks burned one night. Applicant further testified that the arrest and the bad publicity caused him to perform some irrational acts and were the cause of his problems with this Commission. Applicant is presently employed as a longshoreman and operates a small furniture store. He also is involved in the development of a small restaurant. Applicant desires to return to the moving business as he is more familiar with that line of work and feels he could more properly sustain his family which consists of his wife and seven children.

Section 5135 of the Public Utilities Code provides in part:

" . . . The commission may refuse to issue a permit if it shall be shown that an applicant or an officer, director, partner or associate thereof has committed any act of constituting dishonesty or fraud; committed any act which, if committed by a permit holder, would be grounds for a suspension or revocation of the permit; misrepresented any material fact on his application; or, committed a felony, or crime involving moral turpitude.

"The commission shall issue a permit only to those applicants who it finds have demonstrated that they possess sufficient knowledge, ability, integrity and financial resources and responsibility to perform the service within the scope of their application. . . ."

Findings

1. Applicant was issued a permit to operate as a household goods carrier on April 30, 1970.
2. Applicant's permit to operate as a household goods carrier was suspended on September 7, 1975 for failure to maintain on deposit adequate liability insurance.
3. Pursuant to Resolution No. 17757 dated April 13, 1976 applicant's permit was again suspended effective May 13, 1976 for failure to file Form HG 2 and pay a fine of \$25. The permit was revoked June 13, 1976 pursuant to Resolution No. 17757.
4. On July 27, 1976 the Municipal Court, Northern Judicial District, County of San Mateo, found applicant guilty of violation of Section 5286 of the Public Utilities Code and placed applicant on three years Summary Probation.
5. On April 5, 1977 applicant was found guilty of violating his Summary Probation and sentenced to six months in jail all but sixty days suspended.
6. On March 21, 1978 applicant admitted violating his probation. On March 28, 1978 applicant's previous sentence was reimposed as follows: six months consecutive less sixty days previously served, all but sixty days suspended.

7. Applicant impersonated another applicant when appearing for an examination given pursuant to Section 5135 of the Public Utilities Code on October 25, 1977 in Los Angeles.

8. At a conference held June 23, 1976 in the Commission's office attended by applicant, the Commission's Director of Transportation, and a senior transportation representative, applicant was informed of matters which would have to be settled before reinstatement of his permit could be considered. Applicant has resolved those matters except for the obtaining of Public Liability and Property Damage insurance.

9. Applicant was arrested in connection with the Zebra case in San Francisco but was released after serving one week in jail.

10. Applicant lost business and received some adverse publicity because of the arrest set forth in Finding 9.

The Commission concludes that although applicant may have acted irrationally because of his arrest and adverse publicity in connection with the Zebra case, applicant has shown a total disregard for the rules and regulations of this Commission and has not shown at this time that he now has sufficient integrity to perform the services of a household goods carrier. The Commission further concludes that the application should be denied.

ORDER

IT IS ORDERED that Application No. 57693 is denied.

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

Dated at San Francisco, California, this 31st day of MAY, 1978.

Robert B. Brinnich
 President

William J. ...

Vernon L. ...

Richard P. ...

Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.