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Decision 93395 AUG 4 1981

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 Rolling "K" Kartage)
Corporation, a California corporation;)
Battenfield Bros. Trucking; Carl S.)
Montan; and Kabo-Karr Corporation of)
California, a California corporation.)

OII No. 68
(Filed April 2, 1980)

ORDER REOPENING OII No. 68

On January 6, 1981, the Commission issued Decision (D.) 92526 in Order Instituting Investigation No. 68 (OII 68), an investigation into the operations, rates, and practices of Rolling "K" Kartage Corporation. This decision found that because of an alter ego relationship between Rolling "K" and Kabo-Karr Corporation of California, subhaulers Montan and Battenfield were in fact prime carriers. It further found that Rolling "K" had underpaid Montan by \$12,013.92 and Battenfield by \$10,005.56. These amounts represented net underpayments and took into full account off-sets for trailer rental.

Accordingly, D.92526 ordered Rolling "K" to pay the above amounts to respective carriers. To ensure compliance it further directed the staff to make a subsequent field investigation. The decision was effective on February 15, 1981.

The staff investigation now indicates that on or about January 29, 1981, Lloyd Compton, President of Rolling "K", advised Montan and Battenfield that he intended to pay the amounts provided for in D.92526, but only on the condition that they return 25 percent of the amounts as fees for trailer rental. It appears that Montan and Battenfield have acquiesced to Compton's demand.

Based on its investigation, the staff requests that OII 68 be reopened to determine:

1. Whether Rolling "K" has complied with the terms of ordering paragraph 2 of D.92526;
2. If Rolling "K" has failed to comply, the reasons, if any, for such noncompliance; and
3. Whether further sanctions should be imposed against respondents.

Good cause appearing,

It is ordered that OII 68 be reopened for further hearing before Administrative Law Judge Fraser on September 29 and 30, 1981 at 10 a.m. at the State Building, 350 McAllister Street, San Francisco, California, for the purpose of determining:

1. Whether Rolling "K" Kartage Corporation has complied with D.92526 by making full payment to Montan and Battenfield;
2. If Rolling "K" has failed to comply, the reasons, if any, for such noncompliance;
3. Whether Rolling "K" should be ordered to pay additional penalties pursuant to Public Utilities Code §3774;
4. Whether Rolling "K"'s operating authority should be cancelled, revoked, or suspended;
5. Whether any penalties or sanctions should be imposed against any officer, director, agent, or employee of Rolling "K";
6. Whether the Commission should issue an order to show cause why Rolling "K" should not be held in contempt for failure to comply with D.92526;
7. Whether Montan and Battenfield in any way aided or abetted a failure to comply with D.92526;
8. Whether any penalties or sanctions should be imposed against Montan and Battenfield; and
9. Whether any order or orders that otherwise may be appropriate should be entered in the lawful exercise of the Commission's jurisdiction.

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The Executive Director shall cause personal service of this order to be made on respondents Rolling "K" Kartage Corporation, Battenfield Bros. Trucking, and Carl S. Montan. The effective date of this order as to each respondent shall be the day the order is served on that respondent.

Dated AUG 4 1981, at San Francisco, California.



President









Commissioner