

ALJ/ec/lq

ORIGINAL

Decision 93811

DEC - 1 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of James W. Cain, dba
the Coast Line Express Co., for
authority not to produce his
records and documents as directed
by Resolution 18126.

Application 60913
(Filed September 22, 1981)

O P I N I O N

By Resolution 18126, dated July 22, 1981, the highway carrier operating authority (highway common carrier certificate, highway contract carrier permit, heavy-specialized carrier permit, and agricultural carrier permit) of applicant was ordered suspended as of August 21, 1981 and revoked as of September 20, 1981 unless prior to the dates of suspension and revocation applicant produced his records covering the period, December 1, 1980 through February 28, 1981, for examination by representatives of the Commission's Transportation Division.

The resolution further provided that with respect to the highway common carrier certificate, applicant could request a hearing prior to the suspension and revocation dates, in which event the suspension and revocation would be stayed. The resolution was effective the date of signature (July 22, 1981).

By letter dated September 17, 1981 applicant requested a hearing in this matter. The letter stayed the revocation of the highway common carrier certificate which had been suspended August 21, 1981, by the resolution. By terms of the resolution, applicant's highway contract carrier, heavy-specialized carrier, and agricultural carrier permits were suspended August 21, 1981, and

revoked September 20, 1981. The letter also states that the resolution was served upon James W. Cain on or about August 24, 1981. We cannot locate any record of service of this resolution prior to August 24, 1981.

On October 5, 1981 the Principal of the Compliance and Enforcement Branch of the Commission's Transportation Division advised that applicant produced his records for examination by the staff on September 30, 1981 and recommended that Resolution 18126 be rescinded. The order which follows will provide for such rescission.

In the future we intend that matters of this type be handled in the following manner:

1. The resolution shall provide that personal service of the resolution be made upon the carrier.
2. The effective date of the resolution shall be the date of personal service, rather than the date of issue. (In this instance applicant's operating authority was suspended without notification since he received the resolution two days after the suspension date set forth in the resolution.)
3. The provision that a request for hearing would stay the suspension and/or revocation shall apply to all operating authorities, not just the highway common carrier certificate.
4. The resolution shall set forth that a request for hearing should be in the form of an application filed in accordance with the Commission's Rules of Practice and Procedure.

Under the circumstances the resolution should be rescinded. The effective date of this order should be the date of signature so that applicant's permits are reinstated as soon as possible.

O R D E R

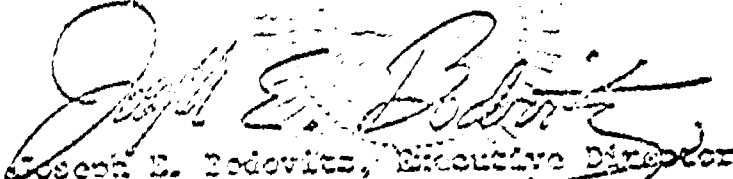
IT IS ORDERED that Resolution 18126 dated July 22, 1981 is rescinded.

This order is effective today.

Dated DEC 1 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VINCENTINO
FRANCIS J. CREW
Commissioners

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


Joseph E. Bedovitz, Executive Director