

Decision 97-10-006 10/9/97

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Yokohama Tire Corporation, et al.,

Complainants,

vs.

Gentry Services, Inc., dba Super Cal Express,

Defendant.

Case 96-06-031
(Filed June 13, 1996)

ORIGINAL

OPINION

1. Summary

This complaint by 24 shippers against a bankrupt transportation company is withdrawn, following dismissal in Bankruptcy Court of the intrastate undercharge proceedings brought against the shippers.

2. Background

Complainant Yokohama Tire Corporation (Yokohama), along with 23 joining complainants as identified in Exhibit A hereto, filed a complaint with the Commission on June 13, 1996, against Chapter 11 Debtor-in-Possession Gentry Services, Inc., doing business as Super Cal Express (Super Cal).

The complaint, filed pursuant to Public Utilities (PU) Code § 737, sought a ruling on whether the tariff rates that Super Cal sought in undercharge proceedings in Bankruptcy Court were unreasonable, and whether Super Cal's practices while still in business complied with the PU Code.

The complaint was filed with the Commission pursuant to an order by the Honorable Ernest M. Robles, judge of the Bankruptcy Court for the Central District of California, entered June 12, 1996, that modified the automatic bankruptcy stay to enable filing of the complaint within the 90-day statutory limit of PU Code § 737. However,

service of the complaint by the Commission was stayed pending further order of the Bankruptcy Court.

In an Order Lifting Stay and Effecting Dismissal in the underlying adversary proceeding,¹ entered May 23, 1997, the Bankruptcy Court ordered that "all Super Cal intrastate undercharge proceedings are dismissed with prejudice and without leave to amend." Plaintiff in that proceeding has since requested dismissal of all of its undercharge adversary proceedings.

Therefore, Yokohama and the 23 joining parties identified in Exhibit A have moved to withdraw their complaint against Super Cal before this Commission. The request to withdraw the complaint is unopposed.

Findings of Fact

1. Yokohama and 23 joining complainants filed this complaint with the Commission against Super Cal on June 13, 1996.
2. The underlying intrastate tariff claims in Bankruptcy Court have been dismissed with prejudice.
3. Complainants seek to withdraw the complaint that is before the Commission.
4. Because this matter has been pending for some time, our order should be made effective immediately.

Conclusion of Law

Complainants' request to withdraw the complaint should be granted.

¹ In re Superior Fast Freight, Inc., Gentry Services, Inc. and Superior Cartage, Inc., Debtors; Gentry Services, Inc. dba Super Cal Express, Debtor in Possession v. Yokohama Tire Company, Adversary Proceeding No. AD 95-05221 ER, United States Bankruptcy Court for the Central District of California.

O R D E R

IT IS ORDERED that:

1. The complaint of Yokohama Tire Corporation and 23 joining complainants as identified in Exhibit A attached hereto against Gentry Services, Inc. dba Super Cal Express is withdrawn, and the case is dismissed.

2. Case 96-06-031 is closed.

This order is effective today.

Dated October 9, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners

EXHIBIT A
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	Complainant	Business Status	Amount Claimed
1.	ACCURIDE INTERNATIONAL, INC. 12311 Shoemaker Avenue Santa Fe Springs, California 90670 Telephone: 310-903-0200	Corporation California	\$52,588.92
2.	ALFAX WHOLESALE FURNITURE, INC. 735 North Water Street Post Office Box 92952 Milwaukee, Wisconsin 53202 Telephone: 414-276-8511 X 21	Corporation Wisconsin	\$4,834.79
3.	ALLIANT FOODSERVICE, INC. One Parkway North Deerfield, Illinois 60015 Telephone: 847-405-8530	Corporation Delaware	\$43,015.30
4.	BIG O TIRES, INC. 11755 East Peakview Avenue, Suite A Englewood, Colorado 80111 Telephone: 303-790-2800	Corporation Nevada	\$33,086.33
5.	C. R. BARD, INC. 730 Central Avenue Murray Hill, New Jersey 07974 Telephone: 908-277-8000	Corporation New Jersey	\$46,033.98
6.	CASE CORPORATION 700 State Street Racine, Wisconsin 53404 Telephone: 414-636-6431	Corporation Delaware	\$155,675.91
7.	CHARLES LEONARD, INC. 79-11 Cooper Avenue Glendale, New York 11385 Telephone: 718-894-4851	Corporation New York	\$9,026.50
8.	CUMMINS ENGINE COMPANY, INC. 500 Jackson Street Post Office Box 3005 Columbus, Indiana 47202-3005 Telephone: 812-377-3557	Corporation Indiana	\$19,763.68

	Complainant	Business Status	Amount Claimed
9.	DIAL INDUSTRIES, INC. 1538 Esperanza Street Los Angeles, California 90023 Telephone: 213-263-6878	Corporation California	\$23,808.21
10.	DIAL SAFETY LADDER CORPORATION 1538 Esperanza Street Los Angeles, California 90023 Telephone: 213-263-6878	Corporation California	\$4,506.08
11.	DURO DYNE CORPORATION Route 110 Post Office Box 117 Farmingdale, New York 11735 Telephone: 516-249-9000	Corporation New York	\$15,102.34
12.	ESSELTE CORPORATION 71 Clinton Road Garden City, New Jersey 11530 Telephone: 516-741-3200	Corporation New York	\$183,816.90
13.	H & L, INC. 1844 Friendship Drive El Cajon, California 92020-1174 Telephone: 619-448-0883	Corporation California	\$18,364.67
14.	HYDRITE CHEMICAL CO. 300 North Patrick Blvd. Post Office Drawer 0948 Brookfield, Wisconsin 53008-0948 Telephone: 414-792-1450	Corporation Wisconsin	\$46,642.01
15.	KWIKSET CORPORATION, a wholly owned subsidiary of THE BLACK & DECKER CORPORATION 516 East Santa Ana Street Anaheim, California 92803-4150 Telephone: 714-535-8111	Corporation California	\$93,003.15
16.	MASTER PRODUCTS MANUFACTURING COMPANY, INC. 3481 East 14th Street Post Office Box 23985 Los Angeles, California 90023 Telephone: 213-265-8042	Corporation Delaware	\$3,802.38

	Complainant	Business Status	Amount Claimed
17.	MITCHELL INDUSTRIAL TIRE COMPANY, INC. 2915 Eighth Avenue Post Office 71839 Chattanooga, Tennessee 37407 Telephone: 423-698-4283	Corporation Tennessee	\$14,414.11
18.	PBB INC. 1910 South Carlos Avenue Ontario, California 91761 Telephone: 909-923-6250	Corporation California	\$9,104.32
19.	PHARMADERM DIVISION OF ATLANTA INC. 60 Baylis Road Melville, New York 11747 Telephone: 516-454-7677	Corporation New York	\$4,245.29
20.	PRO-LINE PAINT COMPANY 2646 Main Street San Diego, California 92113 Telephone: 619-231-2313	Corporation California	\$21,630.94
21.	SANDICAST, INC. 8480 Miralani Drive San Diego, California 92126-4396 Telephone: 619-695-9611	Corporation California	\$5,113.99
22.	THE STANLEY WORKS 1000 Stanley Drive New Britain, Connecticut 06053 Telephone: 860-827-3835	Corporation Connecticut	\$11,994.87
23.	WILBUR CURTIS CO., INC. 1738 North Indiana Street Los Angeles, California 90063 Telephone: 213-269-2584 X 711	Corporation California	\$4,487.06

(END OF EXHIBIT A)