

Decision 97-11-057 November 19, 1997

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion into the operations, rates, and practices of Mike's Rapid Service, Inc., a California corporation and Western Building Materials Co., a California corporation as Shipper Respondent,

Respondents.

**ORIGINAL**

Investigation 89-09-006  
(Filed September 7, 1989)  
Petition for Modification  
Filed December 22, 1992

**OPINION**

In Decision (D.) 90-11-021 (November 9, 1990), the Commission approved a stipulation of settlement of this Order Instituting Investigation (OII) and closed this proceeding. On December 22, 1992, the predecessor to our Rail Safety and Consumer Services Divisions (RSD/CSD) filed a motion for issuance of a final order of revocation of operating authority (motion). The Administrative Law Judge (ALJ) treated the motion as encompassing a petition to modify D.90-11-021. Respondent was given 30 days to respond.

Although the original OII named only Mike's Rapid Service, Inc. (Mike's) as a respondent, RSD/CSD sought relief against the two officers and sole shareholder of Mike's in its motion. On January 7, 1993, the ALJ directed RSD/CSD to file a memo of points and authorities supporting the existence of such authority no later than January 22, 1993. Respondent was given 15 days thereafter to respond. RSD/CSD was also ordered to file and serve a declaration under penalty of perjury by a prescient employee of this Commission that fines and monies required by Ordering Paragraphs 1 and 3 of D.90-11-021 were not paid timely by Mike's.

Due to settlement negotiations between RSD/CSD and Mike's, the memo and declaration were not filed. Although requested to make further filings regarding the status of the motion and OII, RSD/CSD has failed so to do. Therefore, we will deny the

I.89-09-006 ALJ/ANW/sid \*

motion and petition to modify without prejudice and order this OII remain a closed docket under Ordering Paragraph 5 of D.90-11-021.

**O R D E R**

**IT IS ORDERED that:**

1. The motion of the predecessor to our Rail Safety and Consumer Services Divisions for issuance of a final order of revocation of operating authority for cause and the related petition to modify Decision 90-11-021 are denied without prejudice.

2. Investigation 89-09-006 is closed.

This order is effective today.

Dated November 19, 1997, at San Francisco, California.

**P. GREGORY CONLON**  
President

**JESSIE J. KNIGHT, JR.**  
**HENRY M. DUQUE**  
**JOSIAH L. NEEPER**  
**RICHARD A. BILAS**  
Commissioners