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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations and
practices of Kevin Renard Alexander,
also known as Reginald Paul Duncan,
an individual, doing business as
All American Movers, Apollo Movers,
Alexander Enterprises, Mercury
Movers, Affordable Movers, Alexander
Movers, Advantage Movers, Abbott
Movers, Action Moving Company,
and A-Reliable Mover,

Respondent.

F I L E D
PUBLIC UTILITIES COMMISSION
SEPTEMBER 12, 1990
SAN FRANCISCO OFFICE
I.90-09-009

ORDER INSTITUTING INVESTIGATION

Kevin Renard Alexander, also known as Reginald Paul Duncan, doing business as Mercury Movers, holds a household goods carrier permit under T-163,125. The permit was issued on March 14, 1989 to Kevin R. Alexander, doing business as Mercury Moving and Storage, 1519 Hudson, San Francisco, California. The application for this permit was filed with the Commission on November 8, 1988. Contained within the application is a certification of applicant's proposed drivers [CPUC form TL 708A]. This certification is signed by Kevin R. Alexander and dated July 11, 1988. On this document are the drivers' names: Kevin R. Alexander - California Driver's License Number A-4465950 and Robert Wade Abbott - California Driver's License Number A-4480747. The application was signed under penalty of perjury by Kevin R. Alexander. The application contains the following printed statement:

"Each applicant by whom this application is signed certifies (or declares) under penalty of perjury that the representations appearing in said application and in any PUC forms attached thereto (including any accompanying financial schedules, statements or projections) are, to the best of his/her knowledge and belief, true, correct and

complete based on all the information required to be included therein, of which he/she has any knowledge, and these representations are made in good faith".

The permit has been suspended since September 2, 1989 for failure to maintain on file with the Commission evidence of public liability and property damage insurance.

In July 1990 the Compliance and Enforcement Branch (C&E) of the Transportation Division concluded an investigation into allegations that Kevin Renard Alexander, contrary to information supplied when the permit was issued, is also known as Reginald Paul Duncan. Allegations further investigated by C&E were that Alexander conducted operations after his household goods permit was suspended, used fictitious Commission permit numbers in advertising, and failed to respond to customers' loss and damage complaints.

C&E states that in 1986, 1987 and 1988 it investigated an individual named Reginald Paul Duncan, who operated a moving company in the San Francisco Bay Area without holding a valid Household Goods Carriers Permit issued by the Commission. It further states that Duncan conducted business primarily by telephone and through the use of large telephone yellow page advertisements. These advertisements were in numerous Bay Area Pacific Bell SMART Yellow Page editions. Duncan advertised under various fictitious business names such as Getty Movers, Harmony Movers, Calvin Duncan and Sons, and CDS Enterprises. C&E also reports that about forty victims were identified in that previous investigation as having suffered losses and damages to their household and personal items which had been entrusted to Duncan and his company for moving. Few victims ever received from Duncan any restitution for their damages which were estimated in aggregate at over \$40,000. C&E informs us that three misdemeanor arrest warrants were issued in August and September 1988 charging Reginald Paul Duncan with operating a moving company without a Commission permit. Efforts were made by local law enforcement agencies to serve the misdemeanor warrants, but they failed to locate Duncan. These warrants are summarized as follows:

A. In the **FREMONT-NEWARK-UNION-CITY JUDICIAL DISTRICT**, 39439 Paseo Padre, Parkway, Fremont, California, dated September 27, 1988 a warrant was issued in court case docket number [119668] charging Reginald Duncan with two counts of violation of Public Utilities Code Sections 5311 and 5312. Bail was set at \$1,000 and this warrant is still outstanding.

B. In the **SAN LEANDRO-HAYWARD JUDICIAL DISTRICT**, 24405 Amador Street, Hayward, California, dated August 17, 1988, a warrant was issued in court case docket number [233349] charging Reginald Duncan with two counts of violation of Public Utilities Code Section 5311. Bail was set at \$1,000 and this warrant is still outstanding.

C. In the **JUSTICE COURT OF THE RED BLUFF JUDICIAL DISTRICT, COUNTY OF TEHAMA, STATE OF CALIFORNIA**, dated September 14, 1988 is a criminal Complaint, docket number [21877] charging Reginald Paul Duncan with a violation of Public Utilities Code Section 5133. The arrest warrant was issued by Judge Dennis Murray on September 21, 1988 who set bail at \$3,000. This warrant is still outstanding.

The Staff investigation further shows that a Department of Justice [DOJ] fingerprint analysis was conducted at the behest of C&E in May 1990 using the thumbprints on the DMV Driver's License Application [A 4465950] for Kevin R. Alexander and the fingerprints on file with the DOJ for Reginald Paul Duncan. According to Staff, the DOJ analysis confirmed that the thumbprints on the Alexander drivers license application were the same as Reginald Paul Duncan's.

The Staff investigation also shows that the respondent has about ten large telephone advertisements in current 1990 Pacific Bell SMART Yellow Page Directories in San Francisco and in the Bay Area. According to Staff investigators these advertisements contain non-existent CPUC license numbers. The investigators also allege that Duncan has been using various business names such as, All American Movers, Apollo Movers, Alexander Enterprises, Affordable Movers, Alexander Movers, Advantage Movers, Abbott Movers, Action Moving Company, and

A-Reliable Mover, which have not been registered with the Commission as required.

Finally, Staff discloses that the current investigation has identified at least seven more victims who suffered damaged furniture or stolen personal items. One victim claimed to have suffered a theft of over \$35,000 in personal items. Staff alleges that some victims were quoted a low rate for the moving charges over the telephone when they contacted Duncan for an estimate. However these victims were actually charged a higher rate once the move was in progress.

DISCUSSION

Section 5134 of the Public Utilities (PU) Code requires that the application for a Household Goods Carriers Permit "...shall be in writing, verified under oath, and shall be in such form, contain such information and be accompanied by proof of service upon such interested parties as the commission requires." Section 5135 of the PU Code requires applicants for a household goods carriers permit, among other things, to demonstrate that they possess sufficient knowledge, ability, integrity and financial resources and responsibility to perform the service within the scope of their application. This section also provides that the Commission may refuse to issue a permit if it is shown that an applicant has committed any act 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 the application; or, committed a felony, or crime involving moral turpitude.

After the issuance of authority, the Commission exercises continuing oversight of the carrier's fitness under other provisions of law. PU Code Section 5285 authorizes the Commission, upon complaint or on the Commission's own initiative, after notice and opportunity to be heard, to suspend, change, or revoke a permit for failure of the carrier to comply with any of the provisions of the "Household Goods Carriers Act" or with any

any order, rule, or regulation of the Commission or with any term, condition, or limitation of the permit. Section 5139 gives the Commission power to establish rules for the performance of service furnished or supplied by household goods carriers.

It appears that the respondent may have:

1. Violated Section 5139 of the Public Utilities Code by failing to show on shipping documents information required by Items 128 and 132 of Minimum Rate Tariff 4-C;
2. Violated Section 5245 of the Public Utilities Code by assessing charges greater than the maximum allowed on estimated shipments and making verbal estimates in violation of Item 108 of Minimum Rate Tariff 4-C;
3. Violated Section 5286 of the Public Utilities Code by conducting operations as a household goods carrier during a period of permit suspension and revocation;
4. Violated Section 5161 of the Public Utilities Code by failing to maintain on file with the Commission adequate public liability and cargo insurance as required by General Orders 100-L and 136-B;
5. Violated Section 5285.5 of the Public Utilities Code by failing to comply with the Vehicle Code or with the regulations contained in Title 13 of the California Code of Regulations relative to Motor Vehicle Safety;
6. Violated Section 5225 of the Public Utilities Code by failing to produce records as directed by authorized Commission representatives;
7. Violated Section 5134 and 5135 of the Public Utilities Code by falsifying material facts on the application for operating authority filed with the Commission;
8. Violated Section 5132 of the Public Utilities Code by failing to display a Cal "T" identifying symbol as prescribed by the Commission on each vehicle operated for compensation;
9. Violated Section 5139 of the Public Utilities Code by failing to register all fictitious business names and failing to show a Cal "T" number in telephone directory advertising as required by Item 88 of Minimum Rate Tariff 4-C;

10. Violated Section 5139 of the Public Utilities Code by failing to provide shippers with the address of his principal place of business and representing a telephone answering service as a place of business in violation of Item 88 of Minimum Rate Tariff 4-C;

11. Violated Section 5139 of the Public Utilities Code by failing to provide the information booklet to shippers of household goods as required by Item 88 of Minimum Rate Tariff 4-C; and

12. Violated Section 5139 of the Public Utilities Code by failing to acknowledge and process loss and damage claims as required by Item 92 of Minimum Rate Tariff 4-C.

We are mindful that household goods carriers transport goods, entrusted to them by relatively trusting consumers, which are often consumers' most valued and irreplaceable possessions. The allegations described herein are grave and if substantiated may well constitute grounds for revocation (the permit is currently only suspended). Unless evidence to the contrary is adduced by the Respondent, it appears that the Respondent has exhibited a pattern of conduct which clearly demonstrates lack of fitness. The conduct appears to drastically depart from what we normally expect of licensed carriers.

IT IS ORDERED that an investigation on the Commission's own motion is instituted into the operations and practices of Kevin Renard Alexander, also known as Reginald Paul Duncan, Respondent, doing business as All American Movers, Apollo Movers, Alexander Enterprises, Mercury Movers, Affordable Movers, Alexander Movers, Advantage Movers, Abbott Movers, A-Reliable Mover, and Action Moving Company. A public hearing on this matter shall be held expeditiously before an Administrative Law Judge at a time and date to be set, in the Commission's Courtroom at 505 Van Ness Avenue, San Francisco. Respondent may appear and show cause why his permit should not be revoked with a finding that he is unfit to hold operating authority from this Commission. The respondent has the burden of showing why, given the facts documented by our staff, his operating authority should

not be revoked. The Transportation Division staff shall, within 5 days after this order is issued, send to the respondent and assigned ALJ a copy of its declaration which documents the allegations and facts outlined in this order. Staff shall present witnesses at the hearing to support the assertions which led to our instituting this proceeding.

The Executive Director is directed to cause a certified copy of this order to be personally served upon respondent Kevin Renard Alexander, also known as Reginald Paul Duncan. If the respondent cannot be personally served, the Transportation Division and Staff Counsel shall confer with the assigned Administrative Law Judge on what forms of alternative service are appropriate in order to provide legally sufficient notice to the respondent of this investigatory proceeding and any hearing dates.

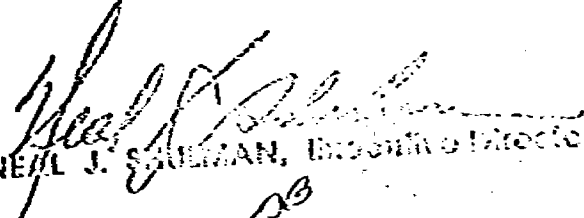
This order is effective today.

Dated September 12, 1990, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
PATRICIA M. ECKERT
Commissioners

Commissioner John B. Ohanian
being necessarily absent, did
not participate.

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


NEIL J. SULLIVAN, Executive Director
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