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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 A Nice Jewish Boy Moving
and Storage, Inc. and Father and Son
Moving and Storage, Inc., California
Corporations.

Respondents.

F I L E D
PUBLIC UTILITIES COMMISSION
DECEMBER 6, 1990
SAN FRANCISCO OFFICE
I.90-12-010

ORIGINAL

ORDER INSTITUTING INVESTIGATION
AND ORDER TO SHOW CAUSE

A Household Goods Carrier permit was issued on June 10, 1985 [T-148,602] to A NICE JEWISH BOY MOVING AND STORAGE, a corporation, 2390 North West 149th Opa-Locka, Florida, (John Porcaro president). John Porcaro qualified for the license by passing an examination on June 4, 1985. Official records further revealed that on July 24, 1986 the corporation changed addresses to 7635 Haskell Avenue, Van Nuys, California. This permit is presently valid.

The Commission issued another Household Goods Carrier permit on June 8, 1988 [T-158,789] to " FATHER AND SON MOVING AND STORAGE, a corporation, 7635 Haskell Avenue, Van Nuys, California (Louis J. Porcaro President). Louis J. Porcaro qualified for this permit by passing an examination on April 21, 1988. This permit is presently valid.

In November 1990 the Transportation Division's Compliance and Enforcement Branch (C&E) concluded an investigation; the major staff allegations are summarized below. It revealed Louis J. Porcaro failed to present to Transportation Division staff documents outlined in a May 8, 1990 staff request. The investigation further revealed that Porcaro routinely failed to give out the Important Notice to Shippers booklet, misrepresented the hourly rates for moving and packing of used household goods, gave verbal quotes for moving used household

goods, and failed to respond to customers' loss and damage complaints even after numerous staff admonishments.

In October 1990 C&E conducted a review of the official enforcement records of the CPUC Van Nuys District Office. That review by C&E further revealed that there had been several complaints filed against both NJB and F&S. Nice Jewish Boy "Carrier History Log" file number T-148,602 had recorded upon it about thirty-three complaint entries from October 1985 to August 1990. Also contained in the log file for NJB were copies of four "OFFICIAL NOTICE" actions. Those actions are summarized as follows:

On December 20, 1985, an Official Notice was issued to Leo Rosen, also known as Louis Porcaro, for "Nice Jewish Boy", admonishing him for violating MRT 4-B by failing to assess the proper rates as contained in Supplement 48.

On December 18, 1987, an Official Notice was issued to Louis Porcaro, Vice President and Office Manager of "Nice Jewish Boy", admonishing him for violating Public Utilities Code section 3775 by operating as a Household Goods Carrier during a period of CPUC permit suspension.

On March 30, 1989, an Official Notice was issued to Louis Porcaro, President of "Nice Jewish Boy Moving and Storage", admonishing him for giving verbal estimates [MRT 4-C Item 108], failure to maintain a legible record of all starting and ending times [MRT 4-C Item 36 (5)] and failure to furnish the customer with the informational booklet [MRT 4-C Item 88 (9a and b)].

On May 24, 1989, an Official Notice was issued to Louis Porcaro, President of "Nice Jewish Boy Moving and Storage", admonishing him for failure to follow MRT 4-C provisions regarding the weighing of shipments for long distance moves [Item 80].

Also, the review revealed that the Father and Son Moving and Storage "Carrier History Log" file number T-158,789 had recorded about eleven complaints from December 1987 to August 1990. This file also contained three documents relating to an advisory conference held in June 1988 with Louis J. Porcaro regarding F&S. On June 28, 1988 a conference was held with Louis

Porcaro. This conference was held to discuss the operations of F&S and the failure of Louis Porcaro to comply with the governing regulation of CPUC MRT 4-C. The file contains an "Official Notice" dated June 28, 1988, which has the initials of "J, P" [for Louis Porcaro] written upon it about eight times. Louis Porcaro was admonished by that document for the following MRT 4-C violations:

1. Giving verbal estimates to prospective shippers [Item 108]. The initials "LP" appear.
2. Failure to show a legible record of all starting and ending times including drive time [Item 36 (5)]. The initials "LP" appear.
3. Failure to show Cal T # on Bill of Lading [Item 132]. The initials "LP" appear.
4. Failure to furnish shipper with Informational Booklet upon first in-person contact [Item 88 (9)].
5. Failure to retain receipt for Informational Booklet in carrier's records for a period of 3 years [Item 88 (9)]. The initials "LP" appear.
6. Failure to keep a separate claims register for Father & Son Moving & Storage [Item 92]. The initials "LP" appear.
7. Failure to properly account for all actual charges [Item 132].
8. Failure to have signature of carrier or his agent [Item 132]. The initials of "LP" appear.

Another admonishment conference was conducted with Louis Porcaro in September 1988. This conference, in Van Nuys, also included John Porcaro. Both Louis and John Porcaro agreed to stop giving verbal estimates for moving services over the telephone, to give out only rates agreed to by the customer, and to furnish to customers the "Important Notice to Shippers" booklet. Both John and Louis Porcaro agreed to follow and obey the MRT 4-C requirements. Both of them also agreed to clearly inform customers of the 10.5% surcharge before any moving services commenced.

On June 5, 1990 C&E conducted an audit of the business records with Louis Porcaro. Porcaro provided information which he alleged complied with the audit request. Also during this audit, Porcaro was again admonished by C&E staff to obey the provisions of the Household Goods Carriers Act and Minimum Rate Tariff 4-C. He was specifically instructed to provide each customer with the Important Notice and to cease giving verbal estimates. He was further instructed to stop misrepresenting hourly rates to customers. According to investigation files, Porcaro agreed to comply with the each of these requests.

The C&E investigators interviewed at least fifteen individuals who had used the services of NJB or F&S. These individuals stated that they had not been given an Important Notice for Shippers booklet. Many told staff that they had been given a verbal estimate over the telephone, that the movers had misrepresented the hourly rates to them, and loss and damage claims were not acknowledged. Most of these individuals told C&E that MRT 4-C rules concerning insurance valuation were not explained to them and that "60¢ per lb." was entered on the bill of lading by someone other than themselves and without their knowledge or consent.

The investigators also located and interviewed four former employees who stated that NJB and F&S routinely paid cash to their employees and failed to pay the required state and federal employee/employer taxes. C&E investigators allege that these employees further acknowledged that NJB and F&S hired untrained, unskilled movers and helpers and failed to provide proper training and supervision. These former employees also expressed to investigators their belief that this lack of training and supervision was the direct cause of most of the loss and damage claims experienced by NJB and F&S.

According to the C&E investigation, F&S has conducted extensive yellow page telephone directory advertising in Los Angeles purporting that the company is "3rd generation" and "family owned and operated since 1908". Many of the F&S customers interviewed by the investigators told staff that they

relied upon this representation. The investigation also revealed that these statements contained in the yellow page advertisements are false and that F&S has been in business since only 1988. According to the investigation, the format copy for these yellow page advertisements was purchased in 1987 from a company operating in New York City, also called Father & Son Moving and Storage, and owned by Frank Russo.

On August 28, 1990, C&E telephoned NJB in Van Nuys and F&S in San Diego, posing as a prospective customer. A verbal estimate was given by both companies.

On November 8, 1990, staff assisted in the execution of a criminal search warrant obtained by the Los Angeles Police Department and by the Los Angeles County District Attorney's Office against NJB and F&S in Van Nuys and San Diego. This search revealed over 50 bills of lading which had been requested for the June 5 audit but which were not included with the documents provided to staff during that audit. The search further revealed hundreds of bills of lading from 1990 showing no evidence that the Important Notice booklet was given to the customers. These bills of lading also contained a 10.5% surcharge which other customers had told staff was not revealed to them.

DISCUSSION

After the issuance of operating authority, the Commission exercises continuing oversight of the carrier's fitness. 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 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 any

service of the character furnished or supplied by household goods carriers.

It appears that the respondents 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 giving verbal estimates in violation of Item 108 of Minimum Rate Tariff 4-C;
3. violated Section 5225 of the Public Utilities Code by failing to produce records as directed by authorized Commission representatives;
4. violated Section 5139 of the Public Utilities Code by advertising that operations are conducted at addresses where the carrier does not maintain a place of business in violation of Item 88 of Minimum Rate Tariff 4-C;
5. 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;
6. 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; and
7. violated the Commission's General Order 142 by failing to adequately train and supervise their drivers, helpers and packers in the transportation of used household goods.

Household goods carriers transport goods, entrusted to them by unprotected consumers, which are valued and irreplaceable possessions. Respondents should recognize that the Transportation Division's allegations described herein are grave, and if substantiated through hearing may well constitute grounds for revocation of the respondents' operating authorities.

IT IS ORDERED that an investigation on the Commission's own motion is instituted into the operations and practices of the respondents "A Nice Jewish Boy Moving and Storage, Inc." and "Father & Son Moving and Storage, Inc.". 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 107 South Broadway, Los Angeles. Respondents shall appear and show cause why their permits should not be revoked in view of the allegations made by the Transportation Division, assuming C&E's allegations are proven at the hearing. The respondents have the burden of showing why, given the facts documented by our staff in the attached declaration, the operating authorities should not be revoked with a finding that they are unfit to hold operating authority from this Commission. The Transportation Division staff, if it elects to do so, may present additional evidence beyond that described in the attached declaration, either by testimony or through documentation, bearing on the fitness of the respondent.

The Executive Director is directed to cause a certified copy of this order to be personally served upon respondents A NICE JEWISH BOY MOVING AND STORAGE, INC. and FATHER & SON MOVING AND STORAGE, INC. The Executive Director is also directed to cause a certified copy of this order to be served by mail to the respondents.

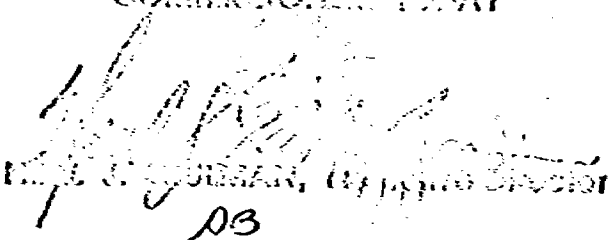
This order is effective today.

Dated December 6, 1990 at San Francisco, California.

G. MITCHELL WILK
 President
 FREDERICK R. DUDA
 JOHN B. OHANIAN
 PATRICIA M. ECKERT
 Commissioners

Commissioner Stanley W. Hulett,
 being necessarily absent, did not
 participate.

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

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 STANLEY W. HULETT, Executive Director
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