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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
motion into the operations, rates, and)
practices of Frank F. Cancilla, Jr.,)
an individual doing business as Frank)
Cancilla Trucking,)
Respondent.)

FILED
PUBLIC UTILITIES COMMISSION
MAY 8, 1991
SAN FRANCISCO OFFICE
I.91-05-009

ORIGINAL

ORDER INSTITUTING INVESTIGATION

Frank F. Cancilla, Jr., dba Frank Cancilla Trucking (Respondent Carrier) (Cancilla) whose mailing address is 2660 Hostetter Rd., San Jose, California 95476, is engaged in the business of transporting property over the public highways of this state for compensation. Cancilla operates pursuant to a highway contract carrier permit and an agricultural carrier permit.

Three shippers have received services from respondent Cancilla in the form of transportation of property over the public highways of this state for compensation.

The scope of this investigation includes, but is not limited to, transportation performed by respondent Cancilla as represented by the freight invoices identified in Attachments A through D, and all supporting documents.

It appears respondent Cancilla may have provided three shippers with transportation services over the public highways of this state for compensation at rates less than the applicable rates; and

It further appears, after Commission staff review of relevant documents and records, that the above named carrier may have violated Sections 3667 and 3737 of the Public Utilities Code. On April 9, 1990, a citation forfeiture with a fines of \$2,000 was served on the respondent carrier. The carrier failed to respond and the citation was deemed denied.

Good cause appearing; therefore,

IT IS ORDERED that an investigation on the Commission's own motion is instituted into the operations, rates, charges, and practices of respondent Cancilla for the purpose of determining:

1. Whether respondent Cancilla has violated Section 3737 of the Public Utilities Code by performing transportation services for three shippers without having contracts on file and in effect with the Commission as required by Rule 6.1 of General Order 147-A.

2. Whether respondent Cancilla has violated Sections 3667 and 3737 of the Public Utilities Code by failing to charge shippers the applicable rates.

3. Whether respondent Cancilla has violated Section 3737 of the Public Utilities Code by engaging subhaulers without having a bond on file with the Commission in violation of General Order 102-H.

4. Whether any or all of respondent Cancilla's operating authority should be cancelled, revoked or suspended, or in the alternative, a fine imposed of up to \$20,000 pursuant to Section 3774 of the Public Utilities Code.

5. Whether respondent Cancilla should be ordered to cease and desist from any and all unlawful operations and practices.

6. Whether any other orders that may be appropriate should be entered in the lawful exercise of the Commission's jurisdiction.

A public hearing in this matter shall be held before an Administrative Law Judge at a time and place to be determined, when the respondent may appear and be heard.

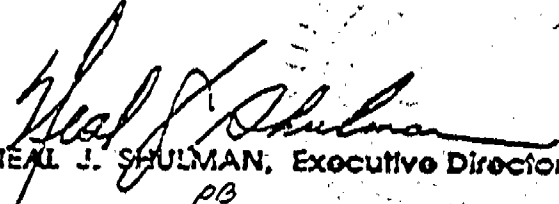
The Executive Director shall cause a certified copy of this order to be served personally on respondent Frank F. Cancilla, Jr. dba Frank Cancilla Trucking.

This order is effective today.

Dated May 8, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director
PB

Attachment A

Frank F. Cancilla, Jr. dba
FRANK CANCELLA TRUCKING
San Jose

T- 2,965

SHIPPER: THE NESTLE CO., INC.
Salinas, California

<u>Part No.</u>	<u>Freight Bill No.</u>	<u>Date</u>
1	4470	4-22-88
2	5639	4-29-88
3	5745	5-16-88
4	5754	5-23-88
5	5128	5-26-88
6	5129	5-26-88
7	5065	6- 2-88
8	Part Deleted	
9	5081	6-16-88
10	5083	6-16-88
11	5084	6-17-88

(End of Attachment A)

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Attachment B

Frank F. Cancilla, Jr. dba
FRANK CANCELLA TRUCKING
San Jose

T- 2,965

SHIPPER: AMERICAN NATIONAL CAN CO.
Oakland, California

<u>Part No.</u>	<u>Freight Bill No.</u>	<u>Date</u>
1	5733	5-05-88
2	5002	5-19-88
3	5709	5-20-88
4	5105	6-02-88
5	5110	6-06-88

End of Attachment B)

Attachment C

Frank F. Cancilla, Jr. dba
FRANK CANCELLA TRUCKING
San Jose

T- 2,965

SHIPPER: PITCAL, INC.
Pittsburg, California

<u>Part No.</u>	<u>Freight Bill No.</u>	<u>Date</u>
1	4524/4829	4-21-88
2	4525/4830	4-21-88
3	4913/4832	4-22-88
4	4922/4834	4-28-88
5	5615/4840	5-05-88
6	5648/5666	5-06-88
7	5667/5651	5-09-88
8	5669/5625	5-10-88
9	5654/5670	5-10-88
10	5629	5-12-88
11	92988/96740	5-17-88
12	96738	5-17-88
13	5634/5747	5-17-88
14	5704	5-18-88
15	5103/5066	6-02-88
16	5230/5151	6-24-88
17	5152/5231	6-24-88

(End of Attachment C)

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Attachment D

Frank F. Cancilla, Jr. dba
FRANK CANCELLA TRUCKING
San Jose

T- 2,965

SECTION FOUR: Engaging subhauler without a bond.

<u>Part No.</u>	<u>Freight Bill No.</u>	<u>Date</u>
1	92186	5-11-88
2	95721	5-16-88
3	92194	5-16-88
4	92988	5-17-88
5	96740	5-17-88
6	96738	5-17-88

Cancilla Check No. 3793 7-2-88 \$3,709.80

(End of Attachment D)