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7/1/97

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the matter of the Order Instituting )  
Investigation on the Commission's own )  
motion into the operations and practices )  
of Elite Moving and Storage, Inc. and its )  
Chairman, John Small and its President, )  
Chad Price, as individuals, )

**FILED**  
**PUBLIC UTILITIES COMMISSION**  
**JUNE 25, 1997**  
**SAN FRANCISCO OFFICE**  
**I.97-06-036**

Respondents. )  
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ORDER INSTITUTING INVESTIGATION

The California Public Utilities Commission [Commission] is the agency responsible for regulation of intrastate transportation of used household goods, personal effects and furniture pursuant to the California Constitution, (Article XII), the Household Goods Carriers Act (Public Utilities Code Sections 5101, et seq.), the Commission's Maximum Rate Tariff 4 (MAX 4), and Commission General Orders (G.O.'s) 100-L, 136-B, 139-A, 142, and others. These statutes and regulations require, among other things, that household goods carriers: operate only in a responsible manner in the public interest; secure, continue in effect, and maintain on file adequate proof of public liability/property damage, cargo, and workers' compensation insurance; and observe rules and regulations governing the acknowledgement and handling of claims for loss and damage, issuing of estimates, execution and issuance of documents, training and supervision of employees, maintenance of equipment and facilities, and rules pertaining to rates and charges. The Commission is the primary agency responsible for enforcement of these and other statutes and regulations governing household goods carriers.

Consumer Services Division Special Agents (Staff) advise us, through the report supporting the issuance of this investigatory proceeding, that it has initiated an investigation into the business practices of Elite Moving and Storage, Inc. [Elite], T-184,023, which operates a moving service in the East Bay Area. Staff's investigation of Elite found alleged violations of the Household Goods Carriers Act and Commission rules and regulations.

#### LICENSE HISTORY

Elite Moving and Storage, Inc. is a holder of a household goods carrier permit under T-184,023. The address of Elite is 171 Mayhew Way, Suite 213, Pleasant Hill, California, 94523.

Joe Small is the Chairman of the corporation and Chad Price is the President. Prior to the issuance of this permit, Price and Small, owners of Elite, held a household goods permit under T-177,203, a partnership. The transfer from the partnership to the corporation was completed in June of 1993. The permit names Chad Price as the person who has established his knowledge and ability to enable the permit holder to engage in business as a household goods carrier.

#### THE INVESTIGATION

Staff says that it opened its investigation into Elite primarily in response to over 30 customer complaints and allegations received by the Consumer Services Division. Staff conducted over thirty interviews with complainants who alleged that despite phone calls, faxes, and letters, Elite did not respond to their claims in a timely matter or did not respond at all. Complainants also alleged that they never received promised payments for damages; Elite had inadequate equipment for their move; carrier did not provide wardrobe boxes as promised; and, it

took over a year to settle their claim. Some complainants just gave up pursuing their claims out of frustration.

Better Business Bureau:

Staff found thirteen complaints on file in the Oakland office of the Better Business Bureau (BBB) for 1995 and 1996. Staff at the BBB stated that Elite had the most complaints of any household carrier in its service area. The President of the Oakland BBB office wrote Elite a letter in September of 1996 which denied the mover's requests for membership.

A staff member in the BBB Oakland Office said that they (Elite) had the most number of complaints of any household mover in the Bay Area.

Small Claims Court

Staff also searched small claims court records for actions filed against Elite. That search and interviews with Elite's customers, revealed eight persons who, after filing their damage claims, became frustrated with Elite's lack of response and filed complaints in Small Claims Court. Several parties, after winning a judgement against Elite, had to file a "Writ of Execution" to obtain their money.

Insurance

Staff's review of the CPUC License Section for Elite revealed that it was suspended for inadequate personal liability and property damage (PL&PD) and cargo insurance effective May 31, 1997. As of June 11, 1997, Elite's permit to operate was still suspended.

#### DISCUSSION

The very beginning and foundation of our regulatory program for household goods carriers is that they must obtain, and keep in force so long as they are operating, authority to operate from the commission [Public Utilities Code Section 5133]. Keeping a household goods carrier permit in force requires the carrier to, among other things, procure and continue in effect adequate protection against liability for the payment of damages for personal injuries and property damage, and for loss or damage to cargo, and workers' compensation insurance. The law further requires that, beyond procuring these protections and continuing them in effect, the carrier must maintain evidence of them on file with the Commission at all times. These provisions were enacted by the Legislature for the protection of the shipping and general public, and that of the carriers' employees.

After the issuance of operating authority, the Commission exercises continuing oversight of the carrier's fitness. Public Utilities Code Section 5285 authorized the Commission, upon complaint or on the Commission's own initiative, after notice and opportunity to be heard, to suspend, cancel, 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.

MAX 4 (Item 92) prescribes rules governing the handling of claims for loss or damage. Claims must be filed in writing and must meet the minimum filing requirements contained in Item 92, paragraph 2. Upon receipt of such claim, carriers are required to acknowledge receipt to the claimant, in writing, within thirty (30) days. Carriers are further required to pay, decline to pay, or make a firm compromise settlement offer in writing within 60 days, or to advise the claimant, in writing,

the status of the claim and reasons for delay. Staff interviewed a number of parties that alleged that Elite did not respond to their filed claim for loss or damage and finally took their claim to small claims court.

MAX 4 (Item 92, para 16.) also states that every carrier of used property shall maintain a claim register, showing, among other things, cargo loss and damage claim received, the claim number, date and amount, date claim was paid and total amount paid (or date claim was disallowed). Staff alleges that Elite did not keep any semblance of a claim register and found claims that were open or not resolved in carrier's "closed file". Staff interviews with a number of Elite's customers revealed that Elite apparently "dropped" their claims since Elite had not responded to their inquiries.

It appears that the respondents may have:

1. Violated Section 5286 of the Public Utilities Code by conducting operations as household carrier during a period of suspension;
2. Violated Section 5161 of the Public Utilities Code by not continuing in effect adequate protection against liability and cargo insurance;
3. Violated Section 5139 of the Public Utilities Code by failing to acknowledge and process loss and damage claims in a timely manner in violation of Item 92 of MAX 4;
4. Violated Section 5139 of the Public Utilities Code by failing to maintain a claim register in violation of Item 92, para. 16 of MAX 4;
5. Violated Section 5139 of the Public Utilities Code by failing to make a reasonable effort to determine the size of motor vehicle equipment appropriate for moving service requested, in violation of Commission General Order 142(1)(b); and

6. Violated Section 5139 of the Public Utilities Code by failing to show on shipping documents information required by Items 128 and 132 of MAX 4.

IT IS ORDERED that an investigation on the Commission's own motion is instituted into the operations and practices of the respondents, Elite Moving and Storage, Inc., its Chairman, Joe Small and its President, Chad Price, to determine whether Public Utilities Code section 5139 was violated as alleged and enumerated earlier in this order, and whether the household goods carrier permit should be suspended or revoked for cause, or fines imposed. A prehearing conference or public hearing on this matter shall be held at a time and date to be set.

The Consumer Services Division staff, if it elects to do so, may present additional evidence beyond that described in the report, either by testimony or through documentation, bearing on the operations of the respondents and their treatment of shippers.

The Executive Director shall cause a copy of this order and the Staff's report to be personally served upon respondents, Joe Small, Chairman, and Chad Price, President, Elite Moving and Storage, Inc. 171 Mayhew Court, Suite 213, Pleasant Hill, California, 94523.

This order is effective today.

Dated June 25, 1997, at San Francisco, California.

P. GREGORY CONLON  
President  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
Commissioners