

**ORIGINAL**

Decision No. 71567

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 RELIABLE TRANSPORTATION COMPANY, a )  
 corporation, CONSOLIDATED COPPER- )  
 STATE LINES, a corporation, VALLEY )  
 MOTOR LINES, INC., a corporation, )  
 SERVICE TANK LINES, INC., a corpo- )  
 ration, for the removal of restric- )  
 tions placed in various permits )  
 held by the applicants, subsequent )  
 to their issuance, and without )  
 formal hearing; and request of the )  
 applicants named for formal hearing )  
 on the question of whether or not )  
 any one of the applicants above )  
 named is the so-called "Alter Ego" )  
 of any other applicant. )

Application No. 47328  
(Filed February 5, 1965)

Arthur Glanz, for applicants.  
Elinore C. Morgan and Walter H. Eastham,  
for the Commission staff.

O P I N I O N

Reliable Transportation Company (Reliable), Consolidated Copperstate Lines (Copperstate), Valley Motor Lines, Inc. (Valley), and Service Tank Lines (Service), request the removal of alter-ego restrictions from the permitted authority held by each of them.

A public hearing was held before Examiner Daly on July 27, 1966, at Los Angeles, and the matter was submitted.

The effect of the restrictions, which were imposed by the Commission in 1964, was to prevent the carrying on of any permitted operations in the transportation of property over the public highways under the various permits issued when such transportation was also covered by the highway common carrier authority of any one of the other carriers herein considered.

Reliable and Service are primarily petroleum carriers and are equally owned by two brothers, W. B. Allen and C. G. Allen.<sup>1/</sup> Valley and Copperstate are primarily engaged in the transportation of general commodities as certificated carriers.<sup>2/</sup> Valley is a subsidiary of Copperstate. Fifty percent of Valley and Copperstate is owned by Horace Steele and the other 50 percent is equally owned by the Allen Brothers.

A breakdown as to the officers and directors of applicants is as follows:

1. Reliable Transportation Company  
4817 Sheila Street  
Los Angeles, California 90022

Directors: C. G. Allen  
W. B. Allen  
Janice Morgan

Officers: President  
Secretary-Treasurer  
Vice Pres.-Asst. Sec.

2. Consolidated Copperstate Lines  
1220 W. Washington Boulevard  
Montebello, California

Directors: Horace Steele  
C. G. Allen  
W. B. Allen

Officers: President  
Vice President-Secretary  
Treasurer-Chairman

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1/ Reliable holds authorities as a Petroleum Irregular Carrier, Statewide; Highway Common Carrier of Petroleum and Petroleum Products; Radial Highway Common Carrier Permit--Unrestricted; City Carrier Permit; various interstate bulk commodity authorities

Service holds authorities as a Highway Common Carrier of Petroleum and Petroleum Products; Contract Carrier; City Carrier Permit, and no interstate authority.

2/ Consolidated Copperstate Lines holds authorities as Highway Common Carrier of Petroleum and Petroleum Products; Highway Contract Carrier of Packaged Petroleum Products, etc., other than in bulk; City Carrier (Sacramento and Fresno) of Petroleum and Petroleum Products; and various interstate authorities.

Valley Motor Lines, Inc., subsidiary of Consolidated Copperstate Lines, holds authorities as Highway Common Carrier; Radial Highway Common Carrier; Highway Contract Carrier; City Carrier Permit; and various interstate authorities.

3. Valley Motor Lines, Inc.  
1220 West Washington Boulevard  
Montebello, California

Directors: W. B. Allen  
Horace Steele  
C. G. Allen

Officers: President  
Secretary-Treasurer  
Vice President

4. Service Tank Lines  
117 West 9th Street  
Los Angeles, California

Directors: C. G. Allen  
W. B. Allen  
Janice Morgan

Officers: President  
Secretary-Treasurer  
Vice Pres.-Asst. Sec.

In addition to the fact, as indicated above, the offices of Valley and Copperstate are separate and apart from Reliable and Service; each carrier owns and operates its own equipment, has its own employees, and keeps and maintains separate records and bank accounts.

It was stipulated that because of the mutuality of ownership between Valley and Copperstate and between Reliable and Service that the restrictions imposed on their permits with respect to their relations with one another should remain. The only issue remaining, therefore, is whether the relationship between Valley and Copperstate, on the one hand, and Reliable and Service, on the other hand, is such as to justify a continuation of the present alter-ego restriction.

The theory of alter-ego has been applied by the courts where it appears that there is such a unity of interest and ownership that the individuality of the person and corporation has ceased and a continuation of the fiction could sanction a fraud or promote injustice.

Applicant relies on "The Alter Ego Doctrine in California" by Robert P. Schifferman, Chapter 22 of a publication of the continuing education of the California Bar, entitled "Advising

California Business Enterprises" published in 1958, and the court cases therein cited, plus the recent case (1962) of Associated Vendors, Inc. v. Oakland Meat Company, 210 C.A.2d 825. (Actually, Stillman Pond, Inc. v. Watson 115 C.A.2d 440 cited in said article supports the decision of the Commission herein.)

Applicants argue that any attempt to relate Reliable and Service to Valley and Copperstate works a hardship on Horace Steele, who has no financial interest in Reliable or Service. The staff relies upon many recent cases wherein the Commission applied the doctrine of alter-ego to establish violations of the minimum rate tariffs and the Supreme Court of this State subsequently refused to issue writs of review.

Section 3542 of the Public Utilities Code prohibits permitted carriers to engage in the transportation of property on any public highway, both as a highway common carrier and as a highway contract carrier or as a highway common carrier and a petroleum contract carrier of the same commodities between the same points. For a number of years, all radial highway common carrier permits issued to entities possessing certificated authority have included the restriction that the carrier shall not engage in the transportation of property under a permit when the transportation is covered by the highway carrier operative authority. See People v. Geijsbeek, 153 C.A.2d 300; August 16, 1957.

The Commission has taken the position that a highway common carrier may not do through a related carrier (alter-ego, in the sense used by the Commission) that which it cannot do directly. Direct Delivery System, Ltd., 53 C.P.U.C. 761. Furthermore, it need not be shown that transactions result in that which the statutes condemn;

only that a transaction may be reasonably susceptible of resulting in the evil which the statutes seek to avoid. Commission Investigation of J. & W. Trucking Co., 59 C.P.U.C. 337.

This record shows clearly common control, ownership, and management between these four carriers by reason of the Allens who own all or 50 percent of all of the entities. Cases cited by applicant do not concern regulated public utility corporations and the public utility statutes here involved. The concept of control here is to assure compliance with public utility transportation statutes and does not center on general corporation problems.

The record indicates and the Commission finds as follows:

1. C. G. Allen and W. B. Allen who are brothers own all of the stock of Reliable and Service and 50 percent of the stock of Valley and Copperstate.

2. C. G. Allen and W. B. Allen are directors and officers of all four applicants.

3. Horace Steele owns 50 percent of the stock of Valley and Copperstate and has no interest in Reliable and Service.

4. Horace Steele is an officer and director of both Valley and Copperstate; he holds no position in either Reliable or Service.

#### Conclusion

After hearing, the Commission concludes that the relationship between Valley and Copperstate, on the one hand, and Reliable and Service, on the other hand, by reason of the common interest in all four of the corporation carriers of C. G. Allen and W. B. Allen, is such that without restrictions it would be permitting applicants

to engage in the transportation of property contrary to the provisions of Section 3542 of the Public Utilities Code. Whether applicants, would or would not operate contrary to Section 3542 were their petitions granted, would not alter our conclusion that the present restrictions should remain in effect.

O R D E R

IT IS ORDERED that applicants' application be denied. The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 22nd day of NOVEMBER, 1966.

Edward J. [Signature] President  
George D. [Signature]  
Augusta [Signature]  
William M. [Signature]

Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.