

Decision 90 10 012 QOT 12 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own  
motion into the operations, rates,  
practices of James A. Huie, an  
individual, dba James Huie Trucking  
and Marco Beretta and David Beretta,  
a partnership, doing business as Five  
Star Lumber Company, as Shipper  
Respondent,

ORIGINAL

I.89-02-046  
(Filed February 24, 1989)

Respondents.

Marco Beretta, for Five Star Lumber  
Company, and James A. Huie, for himself,  
respondents.  
James S. Rood, Attorney at Law, and T. A.  
Boyd, for Transportation Division.

O P I N I O N

On February 29, 1989, the Commission issued an Order Instituting Investigation into the operations, rates and practices of James A. Huie, an individual, doing business as James Huie Trucking. The named shipper was a partnership, Marco Beretta and David Beretta, doing business as Five Star Lumber Company. The proceeding was intended to determine if Huie had undercharged on shipments of pallets for the named shipper.

A Prehearing Conference was held before ALJ Baer on June 21, 1989. As a result, Counsel for the Transportation Division (Division) reached stipulations with Huie and Five Star. Huie agreed to pay a punitive fine of \$1,000. Five Star agreed to pay \$12,712.06 in undercharges; it agreed to pay that sum directly to the state treasury to the credit of the General Fund.

Counsel for the Division has recommended that we adopt the proposed settlement.

Findings of Fact

1. The stipulation in this proceeding is reasonable, consistent with law, and in the public interest.
2. The stipulation is recommended by the staff.
3. The stipulation is uncontested.

Conclusions of Law

1. The stipulation should be adopted.
2. The adoption of this stipulation should not be construed as a precedent or policy statement for or against any of the parties in any current or future proceeding.
3. Since this matter is resolved by stipulation, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The stipulation attached as Appendix A is adopted.
2. James A. Huie, an individual, shall pay a fine of \$1,000 to the Commission in three consecutive monthly installments of \$333.33 each, the first installment due 30 days after the date of this order.
3. Huie remains responsible for pursuing, including legal action if necessary, and collecting the amounts due from Marco Beretta and David Beretta if they do not pay amounts due directly to the Commission at the times specified for payment.
4. Marco Beretta and David Beretta shall pay the sum of \$12,712.06 to the Commission, not later than 30 days after the date of this order.

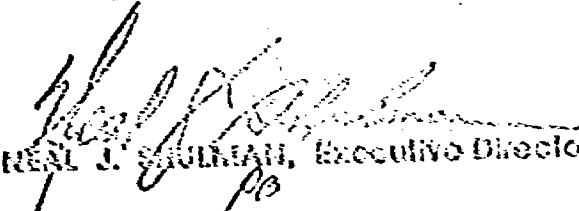
5. This investigation is terminated.

This order is effective today.

Dated OCT 12 1990, at San Francisco, California.

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

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

  
NEAL J. SULMASY, Executive Director  
ps

APPENDIX A

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own )  
motion into the operations, rates, and )  
practices of James A. Huie, an )  
individual dba James Huie Trucking and ) I. 89-02-046  
Mario Beretta and David Beretta a )  
partnership doing business as Five Star )  
Lumber Company, as Shipper Respondent. )  
\_\_\_\_\_ )  
 )

STIPULATION FOR SETTLEMENT

THE PARTIES TO THIS PROCEEDING now pending before the Public Utilities Commission desiring to avoid the expense, inconvenience and uncertainty attendant to litigation of the issues in dispute between them have agreed upon a settlement of the said issues and desire to submit to the Public Utilities Commission this stipulation for approval and adoption as its final disposition of the matters herein.

In addition, since this stipulation represents a compromise by the Parties, the Parties have entered into this stipulation on the basis that the Commission's adoption of this stipulation not be construed as an admission or concession by any party regarding facts or law in dispute in this proceeding. Furthermore, it is the intent and understanding of the Parties that Commission adoption of this stipulation will not be construed as a precedent or policy statement of any kind for or against the Parties in any current or future proceeding.

THEREFORE, THE PARTIES DO STIPULATE AS FOLLOWS:

1. Respondent James Huie Trucking (Huie) agrees to pay an amount to be deposited with the Public Utilities Commission ("Commission") in the sum of \$1,000 pursuant to Section 3774 of the Public Utilities Code. This sum is to be paid in three monthly installments of \$333.33 each. The installments will be payable monthly. The first installment is due 30 days after

issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.

2. Respondents Mario Beretta and David Beretta dba Five Star Lumber Company (Five Star) agree to pay \$12,712.06 directly to the Commission pursuant to Section 3800 of the Public Utilities Code. The amount is due 30 days after issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.

3. Respondent Huie and the Commission's Compliance and Enforcement Branch of the Transportation Division (Commission Staff) agree that the \$12,712.06 may be paid directly by the shipper respondent to the Commission pursuant to Section 3800 of the Public Utilities Code in lieu of payment through Respondent Huie.

4. If the amount of \$12,712.06 for any reason is not paid to the Commission, Respondent Huie agrees to take all reasonable steps including legal action if necessary to collect undercharges in the amount of \$12,712.06 for the transportation of property for the shipper respondent in this proceeding and to pay a sum of \$12,712.06 to the Public Utilities Commission pursuant to Section 3800.

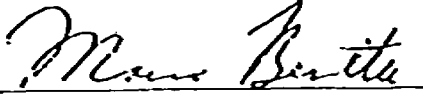
5. The staff of the Public Utilities Commission, specifically the Compliance and Enforcement Branch of the Transportation Division, agrees with the terms of this stipulation and recommends to the Commission that these terms be accepted, that this proceeding known as I. 89-02-046 be terminated, that all respondents in I. 89-02-046 shall henceforth not be subject to any future undercharges, sanctions, or fines arising from transportation performed by Huie for the shipper respondent to and including the date of this Stipulation, and be relieved of liability for the payment of any amounts other than those specifically agreed to be paid in this stipulation.

6. The parties enter into this agreement freely and voluntarily.

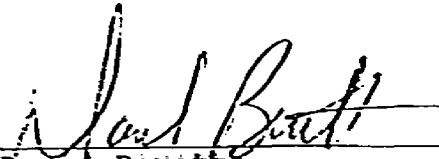
APPENDIX A

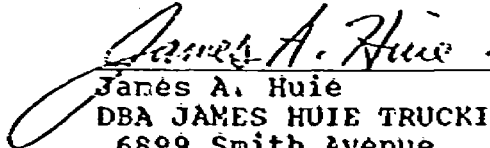
7. It is understood and agreed that the terms herein are binding when approved by the Commission.

DATED:

  
Marco Beretta  
General Manager/Partner  
Five Star Lumber Company  
1999 Mowry Ave., Suite F  
Fremont, CA 94532-3298

  
Lawrence Q. Garcia  
Attorney at Law  
Counsel for Compliance  
and Enforcement Branch  
Transportation

  
David Beretta  
Controller/Partner  
Five Star Lumber Company  
1999 Mowry Ave., Suite F  
Fremont, CA 94532-3298

  
James A. Huie  
DBA JAMES HUIE TRUCKING  
6899 Smith Avenue  
Newark, CA 94560

(END OF APPENDIX A)