

AUG 7 1991

Decision 91-08-007 August 7, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates, and practices of John C. Dias, Darlene C. Dunsing and Shane Dunsing, a partnership, dba DD Transportation and Continental Pacific, a California corporation and Amarant Wood Products, a California corporation as Shipper Respondents.

ORIGINAL

I.90-01-030 (Filed January 24, 1990)

Respondents.

OPINION

John C. Dias, Darlene C. Dunsing and Shane Dunsing, a partnership, doing business as DD Transportation (DD), transports property over the highway for compensation and operates pursuant to a highway common carrier certificate, a highway contract carrier permit, a heavy specialized carrier permit, and an agricultural carrier permit. DD operates out of an office in Arcata, California. The shipper respondents, Continental Pacific (Continental) and Amarant Wood Products (Amarant), operate out of offices in Sacramento and Arcata, California, respectively, and obtained transportation services from DD.

An investigation by the Transportation Division Compliance and Enforcement Branch (Branch) revealed that: DD may have violated Public Utilities (PU) Code § 494 by failing to charge shipper respondents the applicable rates set forth in its tariff on file and in effect with the Commission; that DD may have violated PU Code § 702 by failing to obtain a weighmaster certificate on each shipment as required by Item 1470 of Pacific Coast Tariff Bureau, Agent, Local Freight Tariff 22 (PCTB 22), by failing to issue, obtain and retain split delivery documentation required by Item 1480 of PCTB 22, and by performing split pickups on split

delivery shipments in violation of Item 330 of PCTB 22; and that DD may have violated PU Code § 1074 by engaging subhaulers without having a bond on file with the Commission in violation of General Order 102-H.

Accordingly, the Commission issued on January 24, 1990 its Order Instituting Investigation (I. or Investigation) to determine formally whether the violations alleged by the staff had occurred. This investigation encompasses transportation charges paid by Continental and Amarant to DD as evidenced by freight bills identified in Appendices A and B to the Investigation and all supporting documents.

Procedural Background

Copies of the Investigation were duly served upon the respondents. DD paid Continental's share of the undercharge amount to the Commission pursuant to PU Code § 2100. Settlement discussions were held between DD, Amarant and the staff that resolved all outstanding issues. These agreements are embodied in a document entitled "Stipulation for Settlement," which is signed by counsel for DD, Amarant, and staff counsel and is dated March 29, 1991 (Stipulation). This Stipulation is attached as Appendix A to this opinion and is incorporated herein as though set forth verbatim.

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. Since this matter is resolved by the Stipulation, the following order should be effective immediately.

ORDER

IT IS ORDERED that:

1. John C. Dias, Darlene C. Dunsing and Shane Dunsing, a partnership, dba DD Transportation (DD) shall pay a fine of \$750 to the Commission due 30 days after the date of this order.

2. Amarant Wood Products shall pay the sum of \$1,989.77 directly to the Commission in four consecutive monthly installments, the first three in the amount of \$500 and the fourth in the amount of \$489.77. The first installment is due 30 days after the date of this order.

3. The respondents in I.90-01-030 are not subject to any future undercharges, sanctions, or fines arising from transportation performed by DD for respondent shippers Continental Pacific and Amarant Wood Products to and including March 29, 1991, and are relieved of liability for the payment of any amounts other than those specifically agreed to be paid in the Stipulation For Settlement attached hereto as Appendix A.

4. This investigation is terminated.

This order is effective today.

Dated August 7, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President

G. MITCHELL WILK

JOHN B. OHANIAN

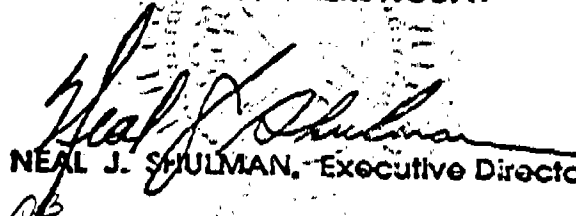
NORMAN D. SHUMWAY

Commissioners

Commissioner Daniel Wm. Fessler,  
being necessarily absent, did not  
participate.

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

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NEAL J. SHULMAN, Executive Director

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 John C. Dias, Darlene C. )  
 Dunsing and Shane Dunsing, a ) I. 90-01-030  
 partnership dba D D Transportation and )  
 Continental Pacific, a California )  
 corporation and Amarant Wood Products, )  
 a California corporation, as Shipper )  
 Respondents. )

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.

NOW, THEREFORE, THE PARTIES DO STIPULATE AS FOLLOWS:

1. Respondent John C. Dias and Shane Dunsing dba D D  
 Transportation (D D) agrees to pay an amount to be deposited with  
 the Public Utilities Commission ("Commission") in the sum of  
 \$ 750 pursuant to Section 1070 of the Public Utilities Code. This

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amount is to be paid within 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. Respondent D D agrees to take all reasonable steps including legal action if necessary to collect undercharges in the amount of \$ 2,179.71 for the transportation of property for two shipper respondents in this proceeding and to pay a sum of \$ 2,179.71 to the Public Utilities Commission pursuant to Section 2100.

3. It is hereby acknowledged that Respondent D D has paid a portion of the undercharges sum of \$ 2,179.71 in the amount of \$ 189.94 to the Commission pursuant to Section 2100 of the Public Utilities Code. This amount is the share of the undercharge amount owed by Respondent Continental Pacific.

4. Staff ratifies the payment of \$ 189.94 by Respondent D D to the Public Utilities Commission pursuant to Section 2100.

5. Respondent D D and the Commission's Compliance and Enforcement Branch of the Transportation Division (Commission Staff) agree that \$ 1,989.77 may be paid directly by one shipper respondent to the Commission pursuant to Section 2100 of the Public Utilities Code in lieu of payment through Respondent D D as specified in Paragraph 2 above.

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6. Respondent Amarant Woods Products (Amarant) agrees to pay \$ 1,989.77 directly to the Commission pursuant to Section 2100 of the Public Utilities Code in lieu of payment through Respondent D D as specified in Paragraph 2 above. This amount may be paid in four consecutive monthly installments, the first three in the amount of \$ 500 and the fourth in the amount of \$ 489.77. 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.

7. Respondent D D agrees that \$ 1,989.77 may be paid directly by Respondent Amarant to the Public Utilities Commission pursuant to Section 2100.

8. 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. 90-01-030 be terminated, that all respondents in I. 90-01-030 shall henceforth not be subject to any future undercharges, sanctions, or fines arising from transportation performed by D D for the shipper respondents 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.

APPENDIX A

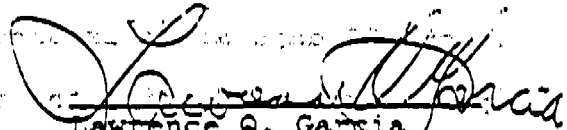
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- 9. The parties enter into this agreement freely and voluntarily.
- 10. It is understood and agreed that the terms herein are binding when approved by the Commission.

Dated: 3-29-91 **PREVIOUS COPY SIGNED 2-21-91**  
 WITHED 2-22-91



**Steve Amarant**  
 Authorized Representative  
 Amarant Woods Products, Inc.  
 P.O. Box 1008  
 Arcata, CA 95521



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



**Shane Dunsing**  
 Authorized Representative  
 D D Transportation  
 2018 1th St.  
 Arcata, CA 95521

(END OF APPENDIX A)