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Decision 92-05-046 May 20, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations,  
rates, and practices of Wallace  
Albert Brown, Jr., dba Brown  
Trucking, Respondent.

**ORIGINAL**  
I.91-11-003  
(Filed November 6, 1991)

O P I N I O N

Wallace Albert Brown, Jr., doing business as Brown Trucking (Brown), transports property over the public highways of this state for compensation, pursuant to a highway common carrier certificate, issued July 6, 1990, and a highway contract carrier permit, issued September 15, 1978, in file T-124,615.

A Transportation Division investigation revealed that Brown may have provided transportation services to Star, Inc., doing business as California Roofers Supply, of San Mateo, at rates less than the applicable rates, in violation of Public Utilities (PU) Code §§ 3667 and 3737.

On August 25, 1989, the Transportation Division issued to Brown an undercharge citation and a citation forfeiture, with fines of \$14,799.84 and \$750.00, respectively. Brown paid the \$750.00 citation forfeiture fine. On December 23, 1989, Brown executed a "fine payment agreement" with the Transportation Division. The agreement provided that Brown would pay the \$14,799.84 fine imposed by undercharge citation No. F-3819A in monthly installments of \$1,200.00, commencing February 1, 1990, and to pay the fine to the Commission as the undercharges named in the citation are collected. Although one partial payment of \$500.00 was remitted in May, 1990, no further payments have been received, and a balance of \$14,299.84 remains. A later Transportation Division investigation indicates that although respondent Brown apparently collected the

undercharges from the shipper, Star, Inc., Brown has not otherwise complied with the citation. Star, Inc. is not named as a respondent in the investigation, because the Transportation Division has evidence that it has paid the undercharges to Brown.

On November 6, 1991, The Commission issued its Order Instituting Investigation to inquire into the allegations stated above. A prehearing conference was duly set on February 7, 1992. However, before that date, Brown entered into settlement negotiations with the Transportation Division, which resulted in the execution of a stipulation for settlement, dated February 29, 1992.

In the stipulation Brown agrees to pay \$14,299.84 pursuant to PU Code §§. 3774 and 3800. This amount is to be paid in consecutive monthly installments of \$250, the first of which is due 30 days after issuance of the Commission's order approving and adopting the terms of the stipulation. Brown further agrees that one year from the date of the Commission's order the Transportation Division may begin periodic reviews of his current financial situation to determine whether it has improved to the point that monthly installments might be increased up to \$500.00 per month.

The Compliance and Enforcement Branch of the Transportation Division agrees with the terms of the stipulation and recommends to the Commission that they be accepted, that this proceeding be terminated, that Brown shall not henceforth be subject to any further sanctions or fines arising from transportation performed by him to and including the date of the stipulation, and that he be relieved of further liability for the payment of any amount other than that specially agreed to be paid in the stipulation.

A copy of the stipulation is appended in this decision.

Findings of Fact

1. The stipulation is reasonable, consistent with law, and in the public interest.

2. The stipulation is recommended by the Transportation Division.

3. The stipulation is uncontested.

Conclusions of Law

1. The stipulation should be adopted.

2. Since the case is resolved by stipulation, the following order should be effective immediately.

ORDER

IT IS ORDERED that:

1. Wallace Albert Brown, Jr., doing business as Brown Trucking (Brown), shall pay \$14,299.84 to the Commission in consecutive monthly installments of \$250.00. The first installment is due 30 days after the date of issuance of this order.

2. The Transportation Division staff is further authorized to commence periodic reviews of Brown's current financial position to determine whether his financial condition has improved to the point where consecutive monthly installments might be increased up to a maximum of \$500.00 per month.

3. Upon payment in full of the amount ordered above, Brown shall thenceforth not be subject to any further sanctions or fines arising from transportation performed by Brown to and including the date of the stipulation; and Brown shall be relieved of liability for the payment of any amount other than that amount specifically agreed to be paid in the stipulation.

4. This investigation is terminated, and the docket is closed.

This order is effective today.

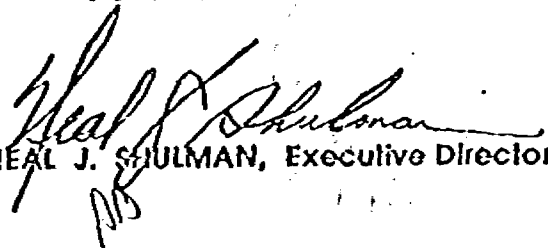
Dated May 20, 1992, at San Francisco, California.

DANIEL Wm. FESSLER  
President

JOHN B. OHANIAN  
NORMAN D. SHUMWAY  
Commissioners

Commissioner Patricia M. Eckert,  
being necessarily absent, did  
not participate.

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

  
NEAL J. SHULMAN, Executive Director

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own	)	
motion into the operations, rates and	)	
practices of Wallace Albert Brown, Jr.,	)	
an individual doing business as Brown	)	I. 91-11-003
Trucking,	)	
	)	
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 it on the basis that the Commission's adoption of said STIPULATION not be construed as an admission or concession by any party regarding the 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.

APPENDIX A

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NOW, THEREFORE, THE PARTIES DO STIPULATE AS FOLLOWS:

1. Respondent Wallace Albert Brown, Jr. (Brown) agrees to pay an amount to be deposited with the Public Utilities Commission ("Commission") in the sum of \$14,299.84 pursuant to Sections 3774 and 3800 of the Public Utilities Code. This amount is to be paid, initially, in consecutive monthly installments of \$ 250, the first installment 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 his investigation.

2. Respondent Brown further agrees that one year from the Commission's final order in this investigation the staff may commence periodic reviews of his current financial situation to determine whether it has improved so that consecutive monthly installments might be increased up to \$ 500.

3. 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. 91-11-003 be terminated, that the respondent in I. 91-11-003

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shall henceforth not be subject to any future sanctions or fines arising from transportation performed by Brown to and including the date of this Stipulation, and be relieved of liability for the payment of any amount other than that specifically agreed to be paid in this stipulation.

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

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

Dated: 2-30-92

*Wallace Albert Brown, Jr.*  
Wallace Albert Brown, Jr.  
Authorized Representative  
Brown Tucking  
10394 La Duena Way  
San Diego, CA 92124

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