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Decision 92-06-019 June 3, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the operations and)
practices of Berlin Ray Wolfe, an)
individual doing business as Beep's)
Trucking,)
Respondent.)

ORIGINAL
I.91-06-003
(Filed June 5, 1991)

O P I N I O N

Berlin Ray Wolfe, doing business as Beep's Trucking, transports property over the public highways of the state for compensation, operating pursuant to a highway common carrier certificate and highway contract carrier and dump truck carrier permits, all in File No. T-115,134.

The California Highway Patrol (CHP) assigned an unsatisfactory terminal safety rating to Wolfe as a result of a vehicle and records inspection conducted on November 5, 1990. This inspection covered four vehicles and resulted in two vehicles being placed out of service for imminently hazardous brake systems defects.

On December 7, 1990, R. P. Rengstorff, Chief of the CHP's Enforcement Services Division, wrote to the Director of the Transportation Division advising that an inspection of Wolfe's terminal was performed on November 5, 1990, resulting in an unsatisfactory terminal rating. Chief Rengstorff recommended that the operating authorities of Wolfe be suspended. Acting pursuant to the provisions of Public Utilities Code §§ 3774.5 and 1070.5, the Commission on December 12, 1990 suspended Wolfe's operating authorities. (Resolution TL-18336.)

As a result of the December 12, 1990 suspension, Wolfe filed an application for reinstatement with the Commission. This

prompted the CHP to conduct another terminal inspection on January 4, 1991. By memorandum dated January 7, 1991 Commander L. F. Rollin advised that Wolfe's terminal was then satisfactory and that the suspension should be lifted. Wolfe's authorities were reinstated on January 8, 1991.

A Transportation Division investigation disclosed that Wolfe had continued to conduct operations as a dump truck carrier during the period December 12, 1990 through January 8, 1991, when his operating authorities were suspended.

This investigation was opened to inquire whether Wolfe may have conducted operations as a dump truck carrier over the public highways of this state during a period of operating authority suspension and whether Wolfe may have violated Public Utilities Code §§ 3774.5 and 3775.

A prehearing conference was held September 13, 1991, at which Wolfe entered into settlement negotiations with the Transportation Division. Thereafter, further settlement negotiations were conducted by telephone and letter, which resulted in the signing of a stipulation for settlement on April 2, 1992. The stipulation provides that Wolfe agrees to pay an amount to be deposited with the Commission in the sum of \$2,500 pursuant to Public Utilities Code § 3774. This amount is to be paid in 10 consecutive monthly installments of \$210 and two final payments of \$200. The first installment is due 30 days after the Commission issues an order approving and adopting the terms of the stipulation.

The Transportation Division agrees with the terms of the stipulation and recommends to the Commission that the terms be accepted, that the proceeding be terminated, and that Wolfe shall henceforth not be subject to any future sanctions or fines arising from the transportation performed during the suspension of his operating authority to and including the date of the stipulation and that he should be relieved of the liability for the payment of

any amount other than that specifically agreed to be paid in the stipulation.

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

ORDER

IT IS ORDERED that:

1. Berlin Ray Wolfe, doing business as Beep's Trucking, shall pay \$2,500 to the Commission, pursuant to Public Utilities Code § 3774. This amount is to be paid in 10 consecutive monthly installments of \$210 and two final installments of \$200. The first installment shall be due 30 days after the date of issuance of this order.

2. Berlin Ray Wolfe shall henceforth not be subject to any further sanctions or fines arising from transportation performed by him to and including the date of this stipulation, and he shall be relieved of liability for the payment of any amount other than that specifically agreed to be paid in the stipulation, if he shall fulfill the terms of the stipulation and Ordering Paragraph 1.

3. This investigation is terminated and the docket is closed.

This order is effective today.

Dated June 3, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director

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LEGAL DIVISION

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own
motion into the operations, and
practices of Berlin Ray Wolfe, an
individual doing business as Beep's
Trucking,

Respondent.

I. 91-06-003

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.

I. 91-06-003 /ALJ/RTB/

NOW, THEREFORE, THE PARTIES DO STIPULATE AS FOLLOWS:

1. Respondent Berlin Ray Wolfe dba Beep's Trucking (Beeps) agrees to pay an amount to be deposited with the Public Utilities Commission ("Commission") in the sum of \$ 2,500 pursuant to Section 3774 of the Public Utilities Code. This amount is to be paid in ten (10) consecutive monthly installments of \$ 210 and two (2) final payments of \$ 200.

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. 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. 91-06-003 be terminated, that the respondent in I. 91-06-003 shall henceforth not be subject to any future sanctions or fines arising from transportation performed by BEEPS 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.

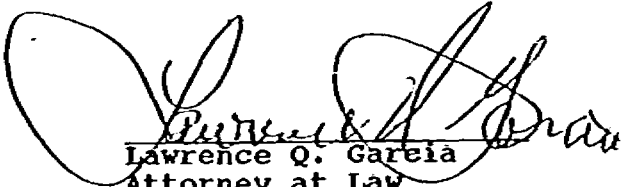
I. 91-06-003 /ALJ/RTB/

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: 4-2-92


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Lawrence Q. Garcia
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Counsel for Compliance
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of Transportation Division