

ORIGINAL

Decision 83 95 026 MAY 4 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of WILLIAM M. STRAUB for authority)
to control and for DITTO FREIGHT) Application 83-03-51
LINES to enter into a security) (Filed March 21, 1983)
agreement.)
_____)

O P I N I O N

William M. Straub (Straub) requests authority under Public Utility (PU) Code Sections 854 and 3551 to control Ditto Freight Lines (Ditto), and for Ditto to enter into a security agreement. Notice of the filing of the application appeared on the Commission's Daily Calendar of March 23, 1983. No protests have been received.

Ditto is a California corporation operating as a highway common carrier under certificates of public convenience and necessity issued to it in Decision 90108 on March 27, 1979 in Application 58231 and under PU Code Section 1063.5 in GC 2379. These certificates authorize the transportation of general commodities between all points in the state of California. Ditto also holds and operates under a highway contract carrier, vacuum truck carrier, tank truck carrier, heavy specialized carrier and

agriculture permits issued to it under File T-106900. The certificate is also the subject of a coextensive Certificate of Registration issued by the Interstate Commerce Commission, under its Docket No. MC-129183 authorizing Ditto to engage in the transportation of property moving in interstate and foreign commerce.

Ditto reported it generated gross operating revenues of \$3,363,342 and net earnings of \$185,809 for the eleven months ended November 30, 1982. Ditto's balance sheet attached as Exhibit D to the application is summarized as follows:

<u>Assets</u>	<u>Amount</u>
Current Assets	\$ 649,438
Property, Plant and Equipment Less Accumulated Depreciation	375,077
Other Assets	<u>113,346</u>
Total	\$ 1,137,861
<u>Liabilities and Common Equity</u>	
Current Liabilities	\$ 250,383
Long-Term Liabilities	276,728
Common Equity	<u>610,750</u>
Total	\$ 1,137,861

Ditto presently has issued and outstanding 3000 shares of \$10 par value capital stock which are held as follows:

<u>Number of Shares</u>	<u>Holder and Position in Ditto</u>	<u>Percent</u>
1,530	David L. Ditto, President and Director	50%
735	Orville W. Hensley, Vice President and Director	25
735	William M. Straub, Secretary/Treasurer and Director	<u>25</u>
Total 3,000		100%

Ditto proposes to reacquire the 1530 shares of common stock from David L. Ditto and the 735 shares from Orville W. Hensley. David L. Ditto and Hensley have decided to retire from the active management of the company. They, therefore, desire to transfer full ownership and control of Ditto to Straub. Straub has been employed in the trucking industry since 1971, and has been acting as general manager of Ditto since 1974. By letter dated March 18, 1983, Ditto's attorney provided a recent balance sheet which reflects Straub's personal net worth of \$472,000.

Under the Stock Repurchase Agreement, attached as Exhibit B to the application, David Ditto and Hensley will remain employees of the company for a period of two years. With their participation and Straub remaining the general manager of the company, Ditto will be continued under the control of qualified and and experienced managerial personnel.

As part of the consideration for the sale of the stock to the corporation, Ditto seeks authority to enter a Joint Security Agreement^{1/}, a copy of which is attached as Exhibit C to the application. Under Commission Resolution 18161, dated September 8, 1982, the Commission exempted carriers whose total gross revenue is less than \$5 million from the requirements of Article 5 of the PU Code. In view of the carrier's revenue shown in Exhibit D, Ditto is exempted from the provisions of PU Code Sections 816 through 830. Accordingly, this part of Ditto's application is dismissed. ✓

The application indicates that there will be no changes in the officers and directors of Ditto, if the authority requested by this application is granted, according to the Stock Repurchase Agreement. Also, as a result of the change of control requested, the competitive position and operations of Ditto will in no way be affected. According to the application, a copy was served upon the California Trucking Association. Ditto requests waiver of Rule 21(f) of the Commission's Rules of Practice and Procedure relating to notifying other carriers.

The Transportation and Revenue Requirements Divisions have reviewed the application and conclude that Straub's and Ditto's request is reasonable, and should be granted.

^{1/} An agreement between Ditto Freight Lines (buyer of the stock), and David L. Ditto and Orville W. Hensley (sellers of the stock) whereby Ditto Freight Lines grants a security interest in the stock to the sellers. The security interest in the stock gives the sellers assurance that the buyer will make payment for the stock it purchased (2,265 shares). ✓

Findings of Fact

1. Ditto is a California corporation, operating both as a certificated and a permitted highway carrier subject to the jurisdiction of this Commission.

2. Ditto proposes to buy the 1530 shares held by David L. Ditto and the 735 shares held by Orville W. Hensley, resulting in William M. Straub owning all the remaining 735 shares of \$10 par value common stock, and thereby obtaining control.

3. The authority requested is not adverse to the public interest.

4. A copy of this application having been sent to the California Trucking Association and notice having been published on the Commission's Daily Calendar of March 23, 1983, in view of the effect of this transaction on competitors, waiver of Rule 21 (f) of the Commission's Rules of Practice and Procedure relative to notice should be granted to Ditto in this transaction.

5. Ditto's request to enter a joint security agreement as part of this transaction should be dismissed as the carrier is exempt under the provisions of Commission Resolution 18616, dated September 8, 1982.

6. There is no known opposition and no reason to delay granting the authority requested.

Conclusions of Law

1. A public hearing is not necessary.
2. The application should be granted to the extent of the order which follows.

The authorization granted here is for the purpose of this proceeding only and is not to be construed as a finding of the value of the assets or capital stock of Ditto.

O R D E R

IT IS ORDERED that:

1. Ditto Freight Lines (Ditto) may purchase 1530 shares of its common capital stock from David L. Ditto, and 735 shares of its common capital stock from Orville W. Hensley.
2. Willaim M. Straub may control Ditto.
3. Rule 21(f) of the Commission's Rules of Practice and Procedure relative to notice is waived in Straub's application to control Ditto.
4. Ditto is exempted from Commission authority to enter into a joint security agreement.

5. Within 90 days after the effective date of this order, William L. Straub shall notify the Commission, in writing, of the date upon which the change of control was consummated.

This order becomes effective 30 days from today.

Dated MAY 4 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

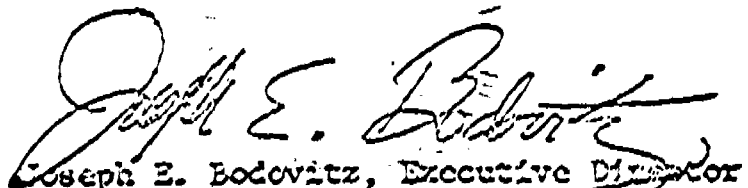
VICTOR CALVO

PRISCILLA C. GREW

DONALD VIAL

Commissioners

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


Joseph E. Bodovitz, Executive Director