

Decision S3 06 056 JUN 15 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
 motion into the operations, rates and)
 practices of Kenneth C. Butin and)
 Michael K. Butin, dba M-K Trucking and)
 Capital Lumber Company, a corporation,)
 Charleys Fence Company, a corporation,)
 Marquart-Wolfe Lumber Co., a corpora-)
 tion, Products Sales Inc., aka Fleet-)
 wood Western Inc., a corporation.)
 Ransom Lumber Sales, a corporation,)
 Shaw Lumber Company, a corporation,)
 South Bay Redwood, Co., a corporation,)
 T & R Lumber Co., a corporation.)
 respondents.)

OII 3 ✓

ORDER FURTHER AMENDING DECISION 90384

Decision (D.) 90384 dated June 5, 1979 directed Kenneth C. and Michael K. Butin (Butins), doing business as M-K Trucking, among other things, to:

1. Collect undercharges from various shippers, including \$23,694.50 from Products Sales Inc., aka Fleetwood Western Inc. (Products), and \$23,224.55 from South Bay Redwood Company (South Bay).
2. Proceed promptly, diligently, and in good faith to pursue all reasonable measures to collect the undercharges.
3. Pay a fine in the amount of the undercharges.

Because the respondent shippers would not pay the undercharges and it was necessary to file legal actions against them, the time schedule and method for collecting the undercharges and paying the fine was amended by D.92151 dated August 19, 1980 and D.82-09-080 dated September 22, 1982.

By letter dated June 3, 1983, Butins' attorney requests Commission authorization of proposed settlements he has negotiated with Products for \$15,500 and with South Bay for \$13,500 in pending

litigation he has filed against them in the Superior Court of Orange County. Copies of the proposed settlements are attached to the letter. Each provides for an immediate payment of \$3,500 and a monthly payment of \$1,000 each succeeding month until the balance is paid in full. Both also provide that if any payment is not timely made, a judgment shall be entered for the remaining balance of the settlement sum together with interest at the rate of 10% per annum from the date of default. The letter asserts that based on the length of time that has elapsed since the transportation in issue moved and the uncertainty of the outcome of the civil actions, the settlement agreements are reasonable.

The attorney points out in his letter that both matters have been consolidated by the court and are set for trial on June 24, 1983. He states that the court has granted several continuations of the trial date to allow settlement negotiations and has advised him that the matter would be dropped from the civil active calendar if it does not proceed on that date. Because of this, he urges that the proposed settlements be approved prior to the trial date.

The Commission's Transportation Division has no objection to the proposed settlements. They will be authorized. Because of the urgency of the requested authority, the following order should be made effective on the date it is signed.

Finding of Fact

The proposed settlements of the civil actions by the Butins against Products and South Bay for the undercharges they were directed to collect from each by D.90384, as amended, are reasonable.

Conclusions of Law

1. The proposed settlements of the civil actions by the Butins against Products and South Bay should be authorized, and the amounts of the undercharges and fine the Butins were directed to collect and pay by D.90384, as amended, should be adjusted accordingly.

2. In all other respects D.90384, as amended, should remain in full force and effect.

3. Notice of the following order did not appear on the Commission's public agenda as required by the Government Code. This matter is an unforeseen emergency in that the request for the authority in issue was received on June 7, 1983 and approval of the proposed settlements is required prior to June 24, 1983.

4. This order should be effective on the date signed because the requested relief is needed before June 24, 1983.

IT IS ORDERED that:

1. The proposed settlements of the civil actions by Kenneth C. and Michael K. Butin (Butins) against Product Sales Inc., aka Fleetwood Western Inc., and South Bay Redwood Company, a corporation, copies of which are attached to their attorney's letter of June 3, 1983, are approved.

2. The amounts of the undercharges and fine the Butins were directed to collect and pay by D.90384, as amended, are adjusted in accordance with the settlement agreements referred to in Ordering Paragraph 1.

3. In all other respects, D.90384, as amended, shall remain in full force and effect.

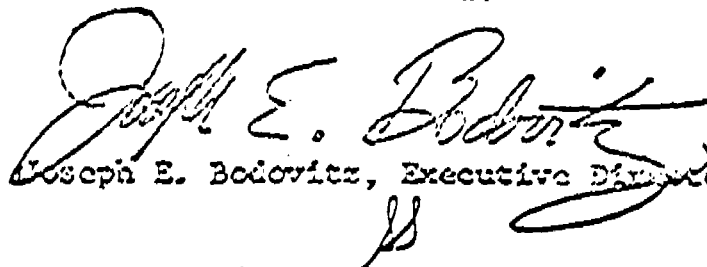
This order is effective today.

Dated June 15, 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

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


Joseph E. Bodovitz, Executive Director

ALJ/md

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