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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates, and practices of Two Rivers Enterprises, Inc., a California corporation, a Respondent Carrier, R. C. Collet, Inc., a California corporation, as Shipper Respondent, and fourteen respondent carriers listed in Attachment A,

Respondents.

ORIGINAL

PUBLIC UTILITIES COMMISSION
JUNE 20, 1990
SAN FRANCISCO OFFICE
I.90-06-038

ORDER INSTITUTING INVESTIGATION

Respondent overlying carrier Two Rivers Enterprises, Inc., a California corporation, (Two Rivers) whose mailing address is P.O. Box 276537 (9510 Jackson Highway) Sacramento, California 95827, is engaged in the business of transporting property over the public highways of this state for compensation. Two Rivers operates pursuant to a dump truck carrier permit issued April 12, 1982 and a tank truck carrier permit issued November 8, 1982 (T-137,543).

The following respondents (collectively "respondent carriers") are engaged in the business of transporting property over the public highways of this state for compensation:

Anthony Deus, an individual doing business as A Deus Trucking Service (Deus), whose mailing address is 1035 Canna Way, West Sacramento, California 95691, operates pursuant to a dump truck carrier permit, issued April 19, 1985, an agricultural carrier permit, issued September 28, 1978, a highway contract carrier permit, issued January 4, 1971, and a heavy specialized carrier permit, issued November 21, 1980 (T-96,811).

Berlin P. Wolfe, an individual doing business as B. P. Wolfe Trucking (Wolfe), whose mailing address is 6330 Virginia Town Rd., Newcastle, California, operates pursuant to a dump truck carrier permit, issued March 25, 1970, an agricultural carrier permit, issued December 7, 1978, a highway contract

carrier permit, issued April 7, 1982, and a highway common carrier certificate, issued March 25, 1970 (T-79,036).

Beets Trucking, Inc., a California corporation (Beets), whose mailing address is 771 A. El Centro Blvd., Rio Oso, California 95674 operates pursuant to a dump truck carrier permit, issued April 28, 1987, an agricultural carrier permit, a highway contract carrier permit and a tank truck carrier permit, all issued February 14, 1983 (T-139,775).

Brian Julean Van Dyke, an individual doing business as Brian Van Dyke Trucking (Van Dyke), whose mailing address is 3879 Pleasant Grove Rd., Pleasant Grove, California 95668, operates pursuant to a dump truck carrier permit, issued March 26, 1987 and an agricultural carrier permit, issued January 25, 1988 (T-155,107).

Denny P. Burnett, an individual doing business as Burnett Trucking (Burnett), whose mailing address is P.O. Box 22625 (8900 Bradshaw Rd.), Sacramento, California 95822, operates pursuant to a dump truck carrier permit, issued May 11, 1970, an agricultural carrier permit, issued March 8, 1990, and a highway contract carrier permit, issued January 31, 1980 (T-82,475).

Donald J. Hooker, an individual doing business as D & R Trucking (D & R), whose mailing address is 5225 Reims Way, Sacramento, California 95842, operates pursuant to a dump truck carrier permit, issued March 29, 1985 and a highway contract carrier permit, issued January 25, 1983 (T-138,565).

David Eugene Fluke, an individual doing business as David Fluke Trucking (Fluke), whose mailing address is 3894 Parkway Place, Auburn, California 95603, operates pursuant to a dump truck carrier permit, issued May 3, 1985 and an agricultural carrier permit, issued May 10, 1984 (T-144,372).

H.S.R. Corporation, a California Corporation (HSR), whose mailing address is 318 Third St., Yreka, California 96097, operates pursuant to a dump truck carrier permit, issued June 29, 1977 (T-117,500).

J & L Trucking Enterprises, Inc., a California Corporation (J & L), whose mailing address is P.O. Box 711, West

Sacramento, (3201 W. Capitol Ave., Sacramento), California 95691, operates pursuant to a dump truck carrier permit, issued August 7, 1985, an agricultural carrier permit, issued October 21, 1980, a highway contract carrier permit, issued October 21, 1980, and a heavy specialized carrier permit, issued November 21, 1980 (T-132,640).

John E. Jackson and James M. Jackson, a partnership doing business as Jackson Ranch (Jackson), whose mailing address is Route 3, Box 582, Woodland, California 95695, operates pursuant to a dump truck carrier permit, issued September 25, 1985, an agricultural carrier permit, issued February 21, 1985, and a highway contract carrier permit, issued November 29, 1982 (T-120,202).

Joel Torres Sr., an individual doing business as Joel Torres Trucking (Torres), whose mailing address is 3598 Kings Way, Apt. #6, Sacramento, California 95821, operates pursuant to a dump truck carrier permit, issued April 15, 1985 and a highway contract carrier permit, issued June 25, 1982 (T-137,866).

Michael E. Rue, an individual (Rue), whose mailing address is 2700 Plumas Arboga Rd., Marysville, California 95901, operates pursuant to a dump truck carrier permit, issued May 13, 1986 and an agricultural carrier permit, issued August 14, 1984 (T-145,406).

V.A. Farms, a California Corporation, whose mailing address is 4050 Pleasant Grove Rd., Pleasant Grove, California 95668, operates pursuant to a dump truck carrier permit, issued June 5, 1985 and an agricultural carrier permit, issued September 24, 1981 (T-135,911).

The following respondent, hereinafter referred to as "respondent shipper", has received services from respondent Two Rivers and the respondent carriers listed in Attachment A in the form of transportation of property over the public highways of this state for compensation, and as such is a shipper of property:

RESPONDENT SHIPPER

R. C. Collet, Inc.
P.O. Box 1965
Woodland, CA 94695

PROCESS AGENT

Louis Mendez, Secretary
2290 E. Main St.
Woodland, CA 95695

It appears that respondent Two Rivers and the respondent carriers may have provided respondent R. C. Collet, Inc. with transportation services over the public highways of this state for compensation at rates less than the minimum rates established by the Commission in Minimum Rate Tariff 7-A.

It further appears that respondent Two Rivers may have procured subhaul transportation from the respondent carriers for less than the minimum amounts established by the Commission in Minimum Rate Tariff 7-A.

It further appears that the respondent carriers may have provided, by means of a device or otherwise, respondent Two Rivers with subhaul transportation over the public highways of this state for compensation less than as prescribed by the Commission in Minimum Rate Tariff 7-A.

It further appears that respondent R. C. Collet, Inc. may have knowingly and willfully procured, by means of a device or otherwise, from respondent Two Rivers transportation services over the public highways of this state for compensation at rates less than the minimum rates established by the Commission in Minimum Rate Tariff 7-A.

Good cause appearing; therefore,

IT IS ORDERED that an investigation on the Commission's own motion is hereby instituted into the operations, rates, charges and practices of respondent Two Rivers and the carrier respondents for the purpose of determining:

1. Whether respondent Two Rivers has violated Section 3737 of the Public Utilities Code by failing to issue a freight bill for each shipment containing all of the information required by Item 170 of Minimum Rate Tariff 7-A.

2. Whether respondent Two Rivers and the carrier respondents listed in Attachment A have violated Section 3737 of the Public Utilities Code by failing to assess hourly rate

charges as provided by Item 360 of Minimum Rate Tariff 7-A. Two Rivers and the carrier respondents participated in and were paid based upon the device of a "cycle time" rate scheme.

3. Whether respondent Two Rivers is so closely united in ownership, interest, operation and control with respondent R. C. Collet, Inc. that it is in fact the alter ego of said respondent.

4. Whether respondent Two Rivers in transporting property for respondent R. C. Collet, Inc. violated Sections 3664, 3667, 3668 and 3737 of the Public Utilities Code by failing to assess and collect the applicable minimum rates established by the Commission.

5. Whether respondent Two Rivers, in procuring subhaul transportation from underlying carrier respondents violated Sections 3668 and 3737 of the Public Utilities Code, by paying to such underlying carriers amounts less than the minimum amounts established by the Commission.

6. Whether respondent Two Rivers has violated Section 3668 of the Public Utilities Code by assisting, suffering or permitting alleged alter ego, respondent R. C. Collet, Inc. to obtain transportation of property at rates less than those prescribed by Minimum Rate Tariff 7-A in that respondent Two Rivers paid less than 100% of the applicable minimum rates to carriers it engaged to transport the property of respondent R. C. Collet, Inc.

7. Whether respondent carriers, in providing respondent Two Rivers with subhaul transportation service, violated Sections 3664, 3667, 3668 and 3737 of the Public Utilities Code by failing to assess and collect the applicable amounts established by the Commission in that they participated in and have been paid "cycle time" rates which were less than 100% of the applicable minimum rates established by the Commission in Minimum Rate Tariff 7-A in performing transportation of the property of respondent R. C. Collet, Inc., the alter ego of respondent Two Rivers.

8. Whether respondent R. C. Collet, Inc., knowingly and wilfully, by means of a device or otherwise, violated Section

3669 of the Public Utilities Code by procuring from respondent Two Rivers transportation service at rates less than the minimum rates established by the Commission in that respondent R. C. Collet, Inc., paid less than 100% of the applicable minimum rates to carriers it engaged to transport the property of R. C. Collet, Inc.

9. Whether any or all of the respondent individuals, partnerships and corporations listed in Attachment A as "respondent carriers" should be ordered to collect from respondent R. C. Collet, Inc. the difference between the charges actually received and the charges due under the applicable minimum rate tariff pursuant to Section 3800 of the Public Utilities Code.

10. Whether respondent R. C. Collet, Inc. should be ordered to pay to any or all of the respondent carriers the difference between the rates and charges actually paid to such respondents and 100% of the applicable minimum rates established by the Commission in Minimum Rate tariff 7-A pursuant to Section 3800 of the Public Utilities Code.

11. Whether respondent Two Rivers should be ordered to collect directly from respondent R. C. Collet, Inc., their alter ego, any difference between the charges actually paid to the respondent carriers and the minimum rates and charges that may be found applicable, pursuant to Section 3800 of the Public Utilities Code in lieu of the respondent carriers as specified in Paragraph 9.

12. Whether, in the event respondent Two Rivers is found to have failed to assess and collect said applicable minimum rates through the device of underpayments to respondent carriers on transportation services performed for its alter ego R. C. Collet, Inc., a fine in the amount of the undercharges should be imposed upon respondent Two Rivers pursuant to Section 3800 of the Public Utilities Code in lieu of the respondent carriers as specified in Paragraph 10.

13. Whether, any or all of respondent Two Rivers operating authority should be cancelled, revoked, or suspended, or in the

alternative, a fine of up to \$ 20,000 be imposed for each offense pursuant to Sections 3774 and 3805 of the Public Utilities Code.

14. Whether, any or all of the respondent carriers' operating authority should be cancelled , revoked, or suspended, or in the alternative, a fine of up to \$ 20,000 be imposed on each or any of them for each offense pursuant to Sections 3774 and 3805 of the Public Utilities Code.

15. Whether any or all of the respondent carriers should be ordered to cease and desist from unlawful operations or practices.

16. Whether any other orders that may be appropriate should be entered in the lawful exercise of the Commission's jurisdiction.

17. The scope of this investigation includes, but is not limited to, transportation performed by respondent Two Rivers and the respondent carriers as represented by the freight bills identified in Appendices B through N, and all supporting documents.

A public hearing in this matter shall be held before an Administrative Law Judge of the Commission at a time and place to be determined, at which time and place all interested parties may appear and be heard.

The Executive Director is directed to cause a certified copy of this order to be served by mail on all respondents, shipper and Two Rivers Enterprises, Inc. The Executive Director

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is also directed to cause a certified copy of this order to be served personally forthwith on respondent carriers listed in Attachment A and respondent Two Rivers Enterprises, Inc.

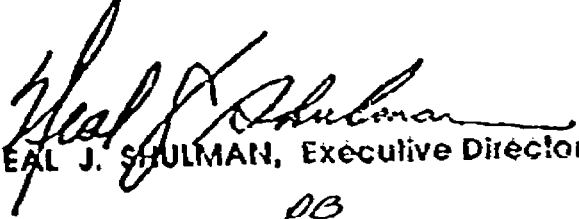
This order is effective today.

Dated June 20, 1990 at San Francisco, California.

FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

President G. Mitchell Wilk,
be necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director

JB

TWO RIVERS ENTERPRISES, INC.
Sacramento

T-137,543

DEBTOR: R. C. COLLET, INC.
Woodland, California

RESPONDENT CARRIERS

PROCESS AGENTS

All respondent carriers have either active or suspended Dump Truck Carrier Permits on file with the Public Utilities Commission as individuals, partnerships or corporations. All corporate entities are active California corporations on file with the Secretary of State's Office in Sacramento. Unless otherwise indicated, Process Agents are located at the same address as respondent carriers.

VOLUME I

T- 96,811

Attachment B

Anthony Deus dba
A DEUS TRUCKING SERVICE
1035 Cannà Way
West Sacramento, CA 95691

T- 79,036

Attachment C

Berlin P. Wolfe dba
B. P WOLFE TRUCKING
6330 Virginia Town Road
Newcastle, CA 95658

T-139,775

Attachment D

Billy Ray Beets,
President
Beets Trucking, Inc.
771 A. El Centro Blvd.
Rio Oso, CA 95674

T-155,107

Attachment E

Brian Julean Van Dyke dba
BRIAN VAN DYKE TRUCKING
3879 Pleasant Grove Road
Pleasant Grove, CA 95668

ATTACHMENT A

RESPONDENT CARRIERS

PROCESS AGENTS

T- 82,475 Attachment F
Denny P. Burnett dba
BURNETT TRUCKING
P.O. Box 22625 (8900 Bradshaw Rd.)
Sacramento, CA 95822

VOLUME II
T-138,565 Attachment G
Donald J. Hooker dba
D & R TRUCKING
5225 Reims Way
Sacramento, CA 95842

T-144,372 Attachment H
David Eugene Fluke dba
DAVID FLUKE TRUCKING
3894 Parkway Place
Auburn, CA 95603

T-117,500 Attachment I
Eric Harms
H.S.R. Corporation
318 Third St.
Yreka, CA 96097

T-132,640 Attachment J
J & L TRUCKING ENTERPRISES, INC.
John C. Cabral, Sr.
3201 W. Capitol Ave. (P.O. Box 711)
Sacramento, CA 95691

VOLUME III
T-120,202 Attachment K
John E. Jackson and James M. Jackson dba
JACKSON RANCH
Route 3, Box 582
Woodland, CA 95695

ATTACHMENT A

RESPONDENT CARRIERS

PROCESS AGENTS

T-137,866 Attachment L
Joel Torres Sr. dba (and P. A. Lombardo)
JOEL TORRES TRUCKING
3598 Kings Way, Apt. #6
Sacramento, CA 95821

T-145,406 Attachment M
Michael E. Rue
2700 Plumas Arboga Rd.
Marysville, CA 95901

T-135,911 Attachment N
Dean S. Van Dyke
V. A. FARMS
4050 Pleasant Grove Rd.
Pleasant Grove, CA 95668

(END OF ATTACHMENT A)