

STATE OF ILLINOIS)
) SS
COUNTY OF CRUNDY)

RECEIVED

BEFORE THE POLLUTION CONTROL BOARD JUN 6 1977

OF THE STATE OF ILLINOIS

POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
and ENVIRONMENTAL PROTECTION)
AGENCY,)

Complainants,)

-vs-

PCB 76-107

CONSOLIDATED FREIGHTWAYS)
CORPORATION OF DELAWARE, a)
Delaware corporation,; MICHIGAN)
CHEMICAL CORPORATION, a Delaware)
corporation, RED BALL MOTOR)
FREIGHT, INC., a Delaware)
corporation, HULCHER EMERGENCY)
SERVICE, INC., An Illinois)
corporation; CITY OF MORRIS,)
ILLINOIS, a Municipal Corporation,)
and ALBERT PFAFF, d/b/a PFAFF)
CONSTRUCTION,)

Respondents.)

STIPULATION

Now come the undersigned parties and hereby stipulate and agree that the attached affidavit of James Carlton Wallace marked Exhibit "A" be admitted into evidence in lieu of the testimony of James Carlton Wallace at the hearing on the merits of this proceeding before the Pollution Control Board of the State of Illinois. It is expressly understood and agreed that this affidavit is to be submitted in lieu of the entire testimony which would be presented by James Carlton Wallace, under both direct and cross-examination, if he were present at such proceeding

and by so stipulating the parties are not admitting the truth of the facts stated in the affidavit but rather are agreeing that such statements are to be accorded such probative value as they would have if Mr. Wallace were to so testify in person before the Pollution Control Board of the State of Illinois.

ENVIROMENTAL PROTECTION AGENCY
of the STATE OF ILLINOIS

By: _____

Jeffrey S. Warden

MICHIGAN CHEMICAL CORPORATION

By: _____

Harley Hutchins

RED BALL MOTOR FREIGHT, INC.

By: _____

Richard Childers

CONSOLIDATED FREIGHTWAYS CORPORATION
of Delaware

By: _____

John L. Parker

STATE OF TENNESSEE)
) SS.
COUNTY OF SHELBY)

A F F I D A V I T

JAMES CARLTON WALLACE, being first duly sworn on oath states as follows:

1. I am 33 years old and reside at 4872 Summerlane Avenue, Memphis, Tennessee.

2. On April 8, 1976, I was employed by Red Ball Motor Freight as a city driver.

3. As a city driver, I made local deliveries and pick-ups of freight within Shelby County, Tennessee, which includes the City of Memphis, Tennessee.

4. On April 8, 1976, I had been employed by Red Ball Motor Freight for approximately twelve (12) years.

5. On April 8, 1976, my particular duties included delivering a load of bromine to the Consolidated Freightways Terminal on Cauier Street, Memphis, Tennessee.

6. I left the Red Ball Terminal about 7:30 a.m. on April 8, 1976, in tractor #5477 and with trailer #8748.

7. Trailer #8748 had been sealed in El Dorado, Arkansas with seal #930819 on March 31, 1976.

EXHIBIT "A"

8. Trailer #8748 contained 200 cases of bromine which had been shipped by Michigan Chemical Company located in El Dorado, Arkansas.

9. There was no other freight on trailer #8748 when I made the delivery to Consolidated Freightways.

10. Before I left the Red Ball Terminal on April 8, 1976, I checked trailer #8748 and observed that no tires were flat, and that "corrosive" placards were in place.

11. Before I left the Red Ball Terminal on April 8, 1976, I inspected trailer #8748 and did not notice any odor coming from said trailer, nor did I notice any leakage of any substance coming from said trailer.

12. The Consolidated Freightways Memphis Terminal is located approximately eight to ten miles from the Red Ball Memphis Terminal.

13. On April 8, 1976, I had been making the trip between the Red Ball Memphis Terminal and the Consolidated Freightways Terminal an average of two or three times per week.

14. On April 8, 1976, during the trip from the Red Ball Memphis Terminal to the Consolidated Freightways Memphis Terminal I did not experience any roughness in the roads I travelled, there was nothing on any of the roads I

travelled which would cause the tractor or trailer to jostle.

15. On April 8, 1976, upon my arrival at the Consolidated Freightways Memphis Terminal, I backed up to the dock, removed seal #930819 and opened the trailer.

16. When I opened the trailer, I could see into the trailer, and none of the cartons were bonded.

17. When I looked into the trailer, there were no cartons upside down or sideways.

18. When I looked into the trailer, I did not notice any odor or any leaking from any of the cartons of bromine.

19. On April 8, 1976, I personally unloaded 200 cartons of bromine from Red Ball trailer #8748 at the Consolidated Freightways Memphis Tennessee.

20. During the unloading process I handled each and every carton of bromine that had been on trailer #8748.

21. On April 8, 1976, I did not notice any odor or leaking from any of the 200 cartons of bromine I unloaded from Red Ball trailer #8748, and none of the cartons were damaged in any way.

22. As I unloaded the 200 cartons of bromine,

EXHIBIT "A"

the cartons were placed on pallets provided by Consolidated Freightways.

23. The pallets contained between 20 and 24 cartons of bromine, stacked in two layers, 10 to 12 cartons per layer.

24. The pallets were loaded into a Consolidated Freightways trailer by forklift truck.

25. A Consolidated Freightways employee signed my freight bill indicated receipt of 200 pieces in good order and did not note that there was any damage to, or problem with, any of the 200 cartons of bromine.

26. Before I closed the doors on Red Ball trailer #8748 on April 8, 1976, I looked at the floor of the trailer and did not notice any leakage of any sort.

27. On April 8, 1976, I had the shipment of 200 cartons of bromine in my possession and control for approximately two (2) hours, and experienced no difficulty whatsoever with the shipment.

FURTHER AFFIANT SAYETH NOT.

EXHIBIT "A"

James Carlton Wallace
JAMES CARLTON WALLACE

SUBSCRIBED AND SWORN TO
BEFORE ME THIS 30 DAY

OF May, 1977.

R. A. Ford
NOTARY PUBLIC

MY COMMISSION EXPIRES FEBRUARY 23, 1978