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Decision No. 14658.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the )  
WESTERN WAREHOUSE AND TRANSFER COMPANY, )  
a corporation, for an order authorizing ) Application No. 10857  
the issue and sale of stock. )

Dana R. Weller, for applicant.

SHORE, Commissioner:

O P I N I O N

The Railroad Commission is asked to make an order authorizing Western Warehouse and Transfer Company to issue 200 shares (\$20,000.00 par value) of its eight percent cumulative preferred stock and 1975 shares of common stock "without nominal value" to George F. Schneider in exchange for the transfer and assignment to applicant of the assets and good will of the business heretofore, and now, conducted by said George F. Schneider; and also to issue and sell at par for cash 1050 shares (\$105,000.00 par value) of eight percent cumulative preferred stock at \$100 per share and issue to the purchasers of such preferred stock, one share of common stock to each two shares of preferred stock so purchased.

The Articles of Incorporation of the Western Warehouse and Transfer Company provide that the capital stock of the corporation shall be divided into 3750 shares of two classes, to-wit; 1250 shares of eight percent cumulative preferred (par value per share \$100.) and 2500 shares of common stock of no nominal or par value.

Under applicant's proposal George F. Schneider is to receive fifty-eight percent of the number of shares of stock to be issued in exchange for tangible assets valued at \$25,000.00, whereas the purchasers of the preferred stock who are to be called upon to invest \$105,000.00 get but forty-two percent of the shares of stock sought to be issued.

It is admitted that the reason for the issue of the no par value stock in the amount requested is to vest the control of the corporation in George F. Schneider. It is argued that inasmuch as he is willing to transfer to the corporation his warehouse and transfer property, he should be given control of the company. However, to acquire a new warehouse and provide the corporation with necessary working capital, it asks authority to sell \$105,000.00 par value of eight percent preferred stock for \$105,000.00 cash. In other words, so far as tangible assets are concerned, George F. Schneider will contribute about twenty percent of the tangible assets and get fifty-eight percent of the number of shares of stock issued, while the purchasers of the \$105,000.00 par value of stock contribute about eighty percent of the tangible property and get but forty-two percent of the shares of stock issued.

The records of the Commission show that it has repeatedly denied requests for permission to issue stock for control purposes. It has followed the policy that those who purchase stock and pay cash therefor should control the affairs of a corporation rather than those who transfer to the corporation in exchange for stock, intangible property values, such as franchise rights, good will and going concern value. True, heretofore stock sought to be issued carried a par value, but the mere fact that stock may be without par value, does not alter the situation. In the present instance, the end sought through the issue of no par stock, is control of the corporation. George F. Schneider, as said, through furnishing less than twenty percent of

the tangible capital, is to be given such control. I believe that the policy of the Commission not to authorize the issue of stock for control purposes is sound and have no intention to recommend a departure therefrom in this proceeding.

I believe that this application should be denied without prejudice and herewith submit the following form of order:-

ORDER

WESTERN WAREHOUSE AND TRANSFER COMPANY having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Commission being of the opinion that the application, for the reasons stated in the foregoing opinion, should be denied, therefore-

IT IS HEREBY ORDERED that the above entitled application of Western Warehouse and Transfer Company for permission to issue stock be, and the same is hereby, denied without prejudice.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

DATED at San Francisco, California, this 13<sup>th</sup> day of March, 1925.

H. B. Brundage

C. Seavey

Egerton Shore

Franklin

Commissioners.