

Decision No. 18211

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
F. M. HODGE to transfer, and of
HENRY N. HODGE to acquire eighty-five
(85%) percent interest in an automobile
freight line operating between Fresno
and Los Angeles, California, and for
the transfer of all rights to a
co-partnership consisting of Henry N. Hodge
and H. A. Rose.

Application
No. 13081

ORIGINAL

Randall & Bartlett, and Devlin & Brookman, by
Douglas Brookman for Applicants,
Ben C. Cohen & Thomas L. Nari, by Thomas L. Nari,
representing W. S. Wheaton, Protestant,
F. C. Drumm, representing First National Bank of
Olive, Protestant.

LOUTTIT, Commissioner -

O P I N I O N

F. M. Hodge, John D. Kwis, and H. A. Rose, co-partners,
operating an automobile truck service under the fictitious
name of San Joaquin Valley Transportation Company, under and
by virtue of the authority contained in this Commission's
Decision No. 15642 on Application No. 11901, have petitioned the
Railroad Commission for an order authorizing (1) the dissolution
of the partnership now existing between said F. M. Hodge, John D.
Kwis and H. A. Rose; (2) the acquisition of the interest of
John D. Kwis by F. M. Hodge for the sum of \$500.; (3) the trans-
fer by F. M. Hodge of his present interest of seventy percent
together with the fifteen percent interest to be acquired from
said John W. Kwis to Henry N. Hodge without monetary consideration;
(4) the establishment of a new co-partnership consisting of
Henry N. Hodge and H. A. Rose, whose interests shall be eighty-five
percent and fifteen percent respectively; and (5) the transfer
of the present operative rights for the conduct of an automobile
freight line between Los Angeles and Fresno as conferred by this
Commission's Decision No. 15642 on Application No. 11901 to the

copartnership of Henry N. Hodge and H. A. Rose, said co-partnership proposing to operate under the fictitious name and style of San Joaquin Valley Transportation Company. Henry N. Hodge joins in the application herein.

A public hearing on this application was held at Los Angeles, the matter was duly submitted and is now ready for decision.

Mr. F. M. Hodge, one of applicants, testified as to the proposed transaction for which the approval of the Commission is herein sought. The line herein proposed to be transferred was originally established by a co-partnership consisting of F. M. Hodge, L. E. Mershon and H. A. Rose, the interest of Mershon having been transferred later to John D. Kwis, authority for such transfer having been regularly approved by this Commission. Under the proposed arrangement witness will acquire the interest of John D. Kwis for the sum of \$500 and will transfer such acquired interest together with witness' presently owned interest, both aggregating 85 percent of the business, to Henry N. Hodge, the son of the witness. No monetary consideration is proposed in this transfer of interest, it being the intention of the witness to establish his son in a business in which said son has been trained during recent years. The business, if the desired transfer be authorized, will be conducted by a new partnership, consisting of Henry N. Hodge and H. A. Rose, the latter having been identified with this freight line since its inception and being fully familiar with its operation. Mr. Rose is to be the manager of the business under the new partnership arrangement. Witness testified that the line had been operated at a loss during the development period since its establishment and witness was dubious as to result of future operations by reason of competition of private carriers and desired to make this transfer so that he might engage in a more profitable business.

The granting of the application is protested by the First National Bank of Olive and by W. S. Wheaton. The basis for these protests is that applicant F. M. Hodge is indebted to these protestants and is personally liable for certain amounts claimed; that protestants security for amounts claimed to be due them will be materially impaired if said applicant is permitted to transfer his interest in the freight line herein considered without any monetary consideration for such transfer; and that the Commission should not authorize the transfer and by such authorization permit the diversion of this applicant's equity in the transportation company and its assets.

Claims of protestants for the preservation of their equities in accounts alleged to be due from the principal applicant are those to be determined not by this Commission but by appropriate action in the civil courts.

The question here to be determined is primarily whether the public interest will be served by the transfer as herein proposed involving as it does the transfer of 85% of the business.

It appears to me that the proposed new partnership will not result in any better financial condition and that the public interest would best be served by the present co-partnership status being preserved. In view of such conclusion it is my recommendation that the application be denied in accordance with the following suggested order.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised and basing its order on the conclusion as contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that this application be and the same hereby is denied.

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 11th day of April, 1927.

Ernest C. Smith

W. S. Seaver

Leon Whitely

Thos. Shavit

Commissioners.