

Decision No. ~~1928~~

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN FRANCISCO-RICHMOND FERRY COMPANY, a corporation, for an order authorizing the issue of stock of the par value of \$800,000.

ORIGINAL

Application No. 5097.

Maxwell McNutt and DeLancey C. Smith, for petitioner O. R. Ludewig.

DECOTO, COMMISSIONER:

SUPPLEMENTAL OPINION AND ORDER

By previous decisions in the above entitled matter as finally modified by our Decision No. 17113 and as further modified by our Decision No. 17212 a return of 70% of the sum of \$62,500 found due to the persons mentioned and named in Decision No. 17113 was ordered and made. The remaining 30%, or more, of the fund on hand in the custody of Wells Fargo Bank and Union Trust Company was directed to be held by said bank to abide the further determination and order of this commission and a final disposition of certain attachments and other claims made against the fund here involved and in the possession of the above mentioned bank. By petition heretofore filed by O. R. Ludewig in behalf of all stockholders a further order has been requested for return of all of the remaining fund on deposit with said bank and pursuant to said petition a public hearing was held on the 18th day of November, 1928. By said pe-⁷nti-⁷tion and from the matter presented at said hearing for the attention of the Commission it now appears that after the effective date of our Decision No. 17212, which was the last Supplemental Opinion and Order made by us in the above entitled matter, O. R.

Ludewig filed an action in the Superior Court of the State of California in and for the City and County of San Francisco and numbered 176856 in the files of the clerk of said court, seeking to quiet title to the remainder of said fund in behalf of all the stockholders of San Francisco-Richmond Ferry Company and requesting distribution thereof to the persons entitled to the said fund, free of all claims thereon, and for allowance by said court of all proper charges against said fund arising by reason of the bringing of such action. It further appears that said action was in furtherance of a determination made by this Commission by its Decision No. 15197 wherein this Commission found said fund to be charged with a trust and held subject to said trust in favor of the persons who had purchased stock from the applicant in the above entitled proceeding, said finding by the Commission being finding No. 14 of the findings contained in the Opinion and Order so numbered 15197.

It further appears that all parties asserting claims against said fund by way of attachment or otherwise were duly served with process in the Superior Court action above mentioned, and thereafter and thereupon, and for the purpose of expediting a termination of said action, an agreement of satisfaction was entered into between the plaintiff and all defendants therein by which all conflicting claims are discharged in full upon payment of the sum of \$3,000 thereafter agreed to be paid out of and from said fund to all the defendants named therein.

Thereafter a hearing was held by the Superior Court, and after taking evidence upon the facts alleged in the complaint in the action, the court rendered judgment in favor of the plaintiff by which it was provided that out of and from said fund there should be paid \$3,000 to the nominee of the defendants in said action which was and is in accordance with the agreement of satisfaction made with defendants; \$500 to Wells Fargo Bank and Union Trust Company for services rendered in connection with administration and holding of said fund

and \$2,392.48 to Maxwell McNutt and DeLancey C. Smith for professional services and expenses incurred in the handling of the litigation and proceedings taken by said attorneys on behalf of stockholders for the recovery of said fund.

It further appeared at the hearing held on November 18, 1927, that L. E. Knox, Secretary of San Francisco-Richmond Ferry Company, has heretofore performed certain services and will be required to hereafter perform certain services in connection with the disbursement of said fund to the persons entitled thereto and has also filed herein a petition for payment to him of \$250 for such services and for payment of the sum of \$250 to his attorneys in connection with legal advice said to be given to him and at the hearing his attorneys were personally present and specially waived any claim for attorneys fees. The sum of \$250.00 is a reasonable fee to be allowed in satisfaction of all claims of L. E. Knox as an individual or as secretary of applicant corporation for any and all services rendered by him or to be rendered by him in connection with disbursement of said fund.

It further appeared at the hearing that the only surviving officer of the applicant corporation, San Francisco-Richmond Ferry Company, was and is L. E. Knox, all other officers being either deceased or disqualified.

From a consideration of all of the evidence and facts a distribution of all of the remaining money in the possession of the bank should be ordered to the persons entitled thereto in the same proportions as heretofore provided in our Decision No. 17113. Such payment, however, should only be made after previous payment of the amounts ordered in the Decision of the Superior Court hereinbefore described and the payment of said sum of \$250 to L. E. Knox.

It further appeared at the hearing that all attachments and executions, or other claims against the fund on deposit with Wells

Fargo Bank and Union Trust Company and here involved, have been dismissed and satisfied of record and that no further claims against said fund are now pending before this Commission or in Court.

O R D E R

IT IS HEREBY ORDERED that Wells Fargo Bank and Union Trust Company pay out of and from any funds in its possession in any account, deposited with it under the name San Francisco-Richmond Ferry Company, upon the order of L. E. Knox, the following sums:

To Ellis Landing and Dock Company, a corporation, E. DeLos Magee, M. Young and Elmer E. Robinson, or their nominee or nominees, the total sum of	\$3,000.00
To itself, Wells Fargo Bank and Union Trust Company	500.00
To Maxwell McNutt and De Lancey C. Smith	2,392.48
To L. E. Knox	250.00

and that the balance of said funds on deposit with Wells Fargo Bank and Union Trust Company in the name of San Francisco Richmond Ferry Company be paid to the persons named in our Decision No. 17113 in the proportion of 1/655th of such balance of said funds to each of said persons for each of the shares of stock owned by said persons in the applicant corporation as shown by said decision.

IT IS HEREBY FURTHER ORDERED that Wells Fargo Bank and Union Trust Company is hereby authorized to do any and all things necessary to carry out the terms of this order without further authorization from this Commission.

IT IS HEREBY FURTHER ORDERED that L. E. Knox file with this Commission within 40 days from the date of this Decision a statement under oath setting forth the fact of any and all payments made by him pursuant to this Decision.

The effective date of this order shall be 10 days from

and after the date hereof.

DATED: at San Francisco, California, this ¹⁶ 17 day of January, 1928.

W. J. ...

Wm. J. ...

Thos. J. ...

W. J. ...
COMMISSIONERS.