

LEM

Decision No. 22754.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the partnership of H. L. Hinman and W. P. Scott, doing business under the name and style of Trans-Bay Commercial Service Co., to sell, and of Commercial Dispatch Lines, Ltd., a corporation, to buy certain physical property and rights under its certificate of public convenience and necessity to operate automobile service for the transportation of property between San Francisco and east-bay cities, and of Commercial Dispatch Lines, Ltd., a corporation, to issue and sell its capital stock.

ORIGINAL

Application No. 16659

Gwyn H. Baker, for applicants.

BY THE COMMISSION:

O P I N I O N

In this application the Railroad Commission is asked to make its order authorizing H. L. Hinman and W. P. Scott, co-partners doing business under the firm name and style of Trans-Bay Commercial Service Company, to transfer their auto truck operative right and properties to Commercial Dispatch Lines, Ltd., a corporation, and authorizing the corporation to issue \$6,625.00 of common stock to pay for such right and properties and \$8,315.00 of stock to provide funds for the purchase of equipment and for working capital.

Hinman and Scott at present are engaged in the business of transporting property between San Francisco and the eastbay cities. Their operative right under which the service is performed, and which they now propose to transfer to the new corporation, was obtained by them by purchase from George W. Elliott and C. S. Crowell, the original owners, under authority granted by the Commission by Decision No. 21549, dated September 12, 1929 in Application No. 15943. It permits, specifically,

"automobile service for the transportation of property between San Francisco and Oakland, Alameda, Emeryville, Berkeley, San Leandro, Albany and Piedmont, said service to be limited to the transportation of parcels weighing not in excess of one hundred pounds each between business houses exclusively and in motor vehicles of closed passenger type of not more than seventy cubic feet inside capacity."

The physical properties to be transferred are set forth in Exhibit "E" and include two Chevrolet one-half ton trucks, three Indian Chief motorcycles, furniture and fixtures and certain improvements on leased properties.

In this present application for an order authorizing the transfer of the operative right and physical properties from the co-partnership to the corporation for \$6,625.00 of stock, it is alleged that it is proposed merely to issue stock to the co-partners to reimburse them for the amounts spent in organization expense and the amounts advanced by them for the purchase of equipment and the operation of the business. The amounts are reported to aggregate \$6,625.

We do not believe that we can authorize the issue of the stock in the amount requested. While it may be true that applicants Hinman and Scott have put \$6,625.00 into their business and properties, it seems to us, upon analysis, that a considerable portion

of the amount so advanced by them was used to meet operating costs and it does not seem to us that we should, or could, permit the issue of stock because of such portion of the advances. The co-partners' financial statement as of May 31, 1930, shows assets and liabilities as follows:-

<u>A S S E T S</u>		
<u>Plant and equipment:</u>		
Organization	\$ 407.94	
Improvements on leased property . .	98.85	
Revenue freight cars	3,714.46	
Furniture	<u>162.30</u>	
Total plant and equipment		\$4,383.55
Cash (Credit)		123.20
Accounts receivable		1,246.13
Materials and supplies		427.22
Prepayments		<u>387.68</u>
Total assets.....		<u>\$6,321.38</u>
<u>L I A B I L I T I E S</u>		
Mortgages payable	\$ 425.05	
Accounts payable	2,208.97	
Accrued insurance	<u>133.22</u>	\$2,767.24
Reserve for depreciation		274.96
Proprietors' account	\$5,625.00	
Deficit	<u>3,345.82</u>	<u>3,279.18</u>
Total liabilities.....		<u>\$6,321.38</u>

If so permitted, the corporation will thus acquire property and assets carried on the co-partners' books at \$6,321.38, against which there are outstanding liabilities of \$2,767.24, which will be assumed by the purchaser, and depreciation reserve of \$274.96, leaving a net figure of \$3,279.18 which we believe is the proper basis for an order authorizing the issue of stock in consideration for the transfer of the right and properties.

Coming to the request of the company to issue the \$8,315.00 of stock, it appears that it is the intention to use the proceeds to pay the indebtedness it will assume and to provide the cost of additional equipment, should the acquisition thereof become necessary and desirable. The record shows that at this time no

need exists for additional equipment. Applicants are in need of funds to pay indebtedness and for working capital. For such purposes the order will authorize the issue of \$2,770.00 par value of stock. If applicant, Commercial Dispatch Lines, Ltd., will hereafter require moneys to buy equipment and it desires to obtain the same through the issue of stock, it may file a new application.

In authorizing the transfer of operative right, we wish to place the purchaser upon notice that the operative right does not constitute a class of property to be capitalized or used as an element of value in determining reasonable rates. Aside from its purely permissive aspect it extends to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed by the state at any time, which is not in any respect limited to the number of rights which may be given.

O R D E R

Application having been made to the Railroad Commission for an order authorizing the transfer of operative right and properties and the issue of \$14,940.00 of stock, a public hearing having been held before Examiner Fankhauser, the Railroad Commission being of the opinion that the transfer of the operative right and property should be authorized, but that the issue of only \$6,050.00 of stock should be permitted at this time and that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required for the purposes specified herein, which purposes are not in whole or in part reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that H. L. Hinman and W. P. Scott, co-partners, doing business under the firm name and style of Trans-Bay Commercial Service Company, be, and they hereby are, authorized to transfer the operative right and properties referred to in this proceeding to Commercial Dispatch Lines, Ltd., a corporation.

IT IS HEREBY FURTHER ORDERED that Commercial Dispatch Lines, Ltd., be, and it hereby is, authorized to purchase and acquire from H. L. Hinman and W. P. Scott said operative right and properties and to issue in part payment on or before December 31, 1930 not exceeding \$3,280.00 of its common capital stock.

IT IS HEREBY FURTHER ORDERED that Commercial Dispatch Lines, Ltd., be, and it hereby is, authorized to issue and sell on or before December 31, 1930, at par, for cash, \$2,770.00 of its common capital stock and use the proceeds to pay indebtedness and provide itself with working capital.

The authority herein granted is subject to the following conditions:-

1. The consideration to be paid for the properties herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing or any purposes other than the transfer herein authorized.
2. H. L. Hinman, W. P. Scott and Commercial Dispatch Lines, Ltd., shall join immediately in common supplement to the tariffs on file with the Commission in the names of H. L. Hinman and W. P. Scott, applicants H. L. Hinman and W. P. Scott on the one hand withdrawing and applicant Commercial Dispatch Lines, Ltd.

on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. H. L. Hinman and W. P. Scott shall withdraw immediately time schedules filed in their names with the Railroad Commission, and Commercial Dispatch Lines, Ltd. shall file, in duplicate, in its own name, time schedules covering service heretofore given by H. L. Hinman and W. P. Scott, which time schedules shall be identical with those now on file in the names of H. L. Hinman and W. P. Scott, or time schedules satisfactory to the Commission.
4. The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred nor assigned, nor service thereunder discontinued by Commercial Dispatch Lines, Ltd. unless written consent of the Railroad Commission has first been secured.
5. No vehicle may be operated by Commercial Dispatch Lines, Ltd. under the authority herein granted, unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.
6. Commercial Dispatch Lines, Ltd. shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

7. The authority herein granted will become effective ten days after the date hereof.

IT IS HEREBY FURTHER ORDERED that the application insofar as it involves the issue of the remaining \$8,890.00 of stock be, and it hereby is, dismissed without prejudice.

DATED at San Francisco, California, this 6th day of August, 1930.

Cl. Scam
Ernest
Leon
Thos. D. L.

Commissioners.