

Decision No. 24837

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
MARY COSTA to sell and RICCARDO TUNZI)
to purchase an automobile freight line) Application No. 18155
operated between San Francisco and)
King City, California.)

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Decision 18691 (Application 13611, August 8, 1927), as modified by Decision 18811 (September 14, 1927), granted a certificate to operate certain truck service to Riccardo Tunzi and Louis Costa, copartners, doing business under the fictitious name of Salinas Valley Freight Line. This certificate was granted in lieu of operative rights theretofore authorized by Decision 15723 in Application 10504.

From the present application it appears that Louis Costa, on September 28, 1931, executed a bill of sale (Exhibit "A" to Application), purporting to convey an undivided one-half interest in the above truck line to Mary Costa, his wife. On the same date Louis Costa, Mary Costa, and Riccardo Tunzi signed an application requesting that the Commission authorize the transfer (Exhibit "B") It is alleged that through inadvertence this application was never filed, but that from September 28, 1931 to February 20, 1932, Mary Costa and Riccardo Tunzi operated the business as partners. On October 14, 1931 Louis Costa died intestate. By written agreement dated February 10, 1932 (Exhibit "C") Mary Costa agreed to

transfer her interest in the business to Riccardo Tunzi for the sum of \$4,530. One thousand dollars of this amount was to be paid in cash, \$1,000 within ninety days from February 20, 1932 (to be evidenced by a six per cent promissory note), and the balance of \$2,530 by a promissory note providing for payment of \$100 on March 1 and April 1, 1932, and \$200 on the first day of each month thereafter until the full amount was paid. Exhibit "D" is a bill of sale dated February 20, 1932, whereby Mary Costa purported to transfer an undivided one-half interest in the business to Riccardo Tunzi. Exhibit (1) "E" is a mortgage upon certain trucks executed by Tunzi to Mary Costa as security for the payment of the notes referred to above. The equipment of Salinas Valley Freight Line as set forth in Exhibit "F" consists of five trucks, the original cost of which is stated to be \$15,100, two trailers, a typewriter, adding machine, and gas pump.

The application requests that an order be made authorizing the transfers set forth above.

ORDER

Being of the opinion that this is a matter in which a public hearing is not necessary, and good cause appearing,

(1) Exhibits "E" and "F" were submitted subsequent to the filing of the application, and have been attached to the original thereof.

IT IS HEREBY ORDERED that Mary Costa is hereby authorized to transfer any right, title, or interest which she may have in the Salinas Valley Freight Line and in the operative rights granted by Decisions 18691 and 18811 to Riccardo Tunzi, subject to the following conditions:

1. The consideration to be paid for the property 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 purpose other than the transfer herein authorized.
2. Applicant Mary Costa and Riccardo Tunzi shall immediately unite with applicant Riccardo Tunzi in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Costa and Tunzi on the one hand withdrawing, and applicant Riccardo Tunzi on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Costa and Tunzi shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicant Riccardo Tunzi shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicants Costa and Tunzi, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Costa and Tunzi, or time schedules satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
5. No vehicle may be operated by applicant Riccardo Tunzi unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that Riccardo Tunzi is hereby authorized to execute a mortgage in substantially the same form as Exhibit "E" to the application herein, and to issue a note in the principal amount of not more than \$2,530, payable as indicated in the above opinion, in part payment for the rights and properties to be transferred, subject to the following conditions:

1. the authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted only insofar as this Commission has jurisdiction under the terms of the Auto Stage and Truck Transportation Act, and is not intended as an approval of said mortgage as to such other legal requirements to which it may be subject.

2. Riccardo Tunzi shall keep such record of the issue of the note herein authorized as will enable him to file a report as required by the Railroad Commission's General Order No. 24.

Riccardo Tunzi is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend 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 at any time by the state which is not in any respect limited to the number of rights which may be given.

The authority herein granted shall not become effective until Riccardo Tunzi has paid the minimum fee prescribed by Section 6 of the Auto Stage and Truck Transportation Act, which fee is \$25.00.

Dated at San Francisco, California, this 6th day of June, 1932.

C. Seaver
Leon S. Sullivan
W. H. ...
W. B. ...
Fred G. ...
Commissioners

Fee # 25 ⁰⁰/₁₀₀
RAILROAD COMMISSION
JUN 10 1932
L. G. Papulich
Fee # 29721