

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of V. W. Mathew and F. Lopez,  
individually and as co-partners,  
and doing business under the  
fictitious name of WHITE STAR  
AUTO STAGE COMPANY, for authority  
to sell and transfer operative  
rights.

APPLICATION NO. 6805

J. E. Mc Curdy, for applicants, Mathew and Lopez  
and H. T. Campbell.

Harry A. Encell for H. Gaeta, protestant.

N. C. Folsom, for Pickwick Stages, N.D., protestant.

BY THE COMMISSION -

O P I N I O N

This is an application by V. W. Mathew and F. Lopez, acting individually and as co-partners, under the fictitious name of the White Star Auto Stage Company, for authority to sell and transfer to Henry T. Campbell the operative rights in the automotive passenger services between San Jose and Hollister and the intermediate points and between Hollister, San Juan and Salinas and the intermediate points.

The rights and privileges proposed to be transferred are those acquired by V. W. Mathew by virtue of having operated between San Jose and Hollister prior to May 1, 1917, and those acquired by F. Lopez from Geo. E. Harter, covering service between Hollister, San Juan, Salinas and intermediate points by virtue of a certificate of transfer granted by this Commission in its Decision No. 8318, Application No. 5389 dated November 8, 1920. The rights formerly held by Harter having been acquired by virtue of operations prior to May 1, 1917.

A hearing was held on the application before Examiner Geary in San Francisco, July 15, 1921, and the matter is now ready for decision.

Testimony showed that through a misunderstanding, the tariffs filed with this Commission by Geo. E. Harter covering the operations between Salinas, San Juan and Hollister had not been canceled and new tariffs issued under the name of Lopez, as was ordered in Decision No. 8318, Application No. 5389. The failure to comply with the order in this respect, however, was an oversight on the part of both Harter and Lopez and under date of July 20, 1921, there was filed with the Commission an adoption of the tariffs and time schedules covering the operations formerly conducted by Geo. E. Harter thus correcting the error and completing the transfer from Harter to Lopez.

Objections to the transfer of the rights claimed by Matheu and by Lopez involved in this application were made by the Pickwick Stages and also by the individual stage operators who were parties to Application No. 5741, wherein authority was granted by Decision No. 8331, November 15, 1920, for the transfer of these same operating rights between San Jose and Hollister. The sale and transfer covered by Application No. 5741 were not perfected and after a formal hearing held July 15, 1921, Decision No. 9341, Application No. 5741 dated August 10, 1921, the permission to transfer covered by Decision No. 8331 of November 20, 1920, was set aside and annulled, thus clearing the records of the Commission and restoring to Matheu and Lopez all of their former rights insofar as Application No. 5741 is concerned.

Other objections were made, based primarily upon the charge that V. W. Matheu had no operating rights between San Jose and Hollister, and reference is made to Case No. 1420, Pickwick Stages, Nor. Div., vs. V. W. Matheu et al. By our Decision No. 8298 in

this Case No.1420, October 28, 1920, it was held that "The evidence herein justifies the conclusion that Mathew was at all times the owner of the operative rights and the person on whose behalf this stage line was operated under the name of the White Star Stages."

Petition for a rehearing was made and denied - Decision No.9087, June 9, 1921. A petition for a Writ of Review on this order in Case No.1420 was filed with the State Supreme Court and denied under date of July 11, 1921.

Under date of July 26, 1921, the Pickwick Stages, Northern Division, Incorporated, filed a petition for a modification of Decision No.8298, Case 1420, and this petition was denied by Decision No.10140, February 27, 1922.

It would therefore appear that the operative rights of Mathew and Lopez to conduct the automobile passenger service between San Jose and Hollister and between Hollister, San Juan and Salinas have been fully sustained.

There were filed with the Commission as exhibits, copies of Power of Attorney given by V. W. Mathew and F. Lopez in January, 1921, to Henry T. Campbell, the applicant in this proceeding.

The testimony would indicate that since given powers of attorney the said Henry T. Campbell has been operating those stage lines between San Jose and Hollister, and between Hollister, San Juan and Salinas on behalf of the owners, Mathew and Lopez.

The Railroad Commission is of the opinion that the application should be granted and the rights to operate the auto passenger service between San Jose and Hollister and intermediate points and between Hollister, San Juan and Salinas and the intermediate points now held by Mathew and Lopez be authorized transferred, as their interests may appear, to H. T. Campbell, applicant herein.

#### ORDER

IT IS HEREBY ORDERED that this application be and the same is hereby granted, subject to the following conditions:

1. That the amount paid for the purchase of this property shall not be considered as a measure of value of said properties before this Commission for rate fixing or any other purpose other than the transfer herein referred to.

2. That applicants V. W. Mathew and F. Lopez will be immediately required to cancel tariff of fares and time schedule in accordance with provisions of General Order No.51 and other regulations of the Railroad Commission.

3. That applicant Henry T. Campbell will be immediately required to file his tariff of rates and time schedule or to adopt as his own the tariff and time schedule heretofore filed by the applicants V. W. Mathew and F. Lopez, such fares and schedule to be identical with those now on file with the Railroad Commission by V. W. Mathew and F. Lopez, such tariff or adoption must be in accordance with General Order No.51 of the Railroad Commission.

4. That the rights and privileges, transfer of which is hereby authorized, must not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. That no vehicle may be operated by the applicant Henry T. Campbell unless such vehicle is owned by him or is leased by him for a specified amount on a trip or term basis, the leasing of equipment not to include the services of a driver or operator. All employment of drivers or operators of leased cars shall be made on the basis of a contract by which the driver or operator shall bear the relation of an employee to the transportation company.

Dated at San Francisco, California, this 14<sup>th</sup> day of

April, 1922.

W. B. Brundage  
Dwight Martin  
W. J. Benedict  
COMMISSIONERS