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# ORIGINAL

Decision No. 5516

Decision No. \_\_\_\_\_

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of	)	
SAN FRANCISCO-OAKLAND TERMINAL	)	
RAILWAYS for authority to pledge as	)	Application No. 3887
collateral security its general lien	)	
mortgage bonds.	)	

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A. L. Whittle, for applicant.

DEVLIN, Commissioner.

## O P I N I O N

San Francisco-Oakland Terminal Railways asks authority to issue and pledge \$77,000.00 face value of its general lien mortgage bonds.

Applicant reports that on April 5, 1918 a judgment for the sum of \$20,000.00 and costs was entered against it and C. C. Way in the Superior Court of the State of California in and for the County of Alameda, in an action brought by Matilda Dunbar to recover damages for personal injuries; that on May 24, 1918 a judgment for the sum of \$10,000.00 and costs was entered against it in the Superior Court of the State of California in and for the County of Alameda in an action brought by Lester Charves, a minor, by Frank Charves, his guardian, ad litem, to recover damages for personal injuries; that on June 10, 1918 a judgment for the sum of \$5,110.00 and costs was entered against it in the Superior

Court of the State of California in and for the County of Alameda in an action brought by Molly Kobida and Joe Kobida to recover damages for personal injuries; that in each of these cases good grounds exist for the reversal of the judgment; that, if said judgments are not reversed, it desires to appeal from said judgments to the Supreme Court of the State of California and provide for a stay of execution of said judgments during said appeal and that it is necessary to file an undertaking on appeal and stay bond of about \$44,000.00 in the Dunbar case; of about \$21,000.00 in the Charves case and of about \$11,000.00 in the Kobida case.

Maryland Casualty Company, applicant reports, has expressed a willingness to act as surety on said undertakings on appeal and stay bonds, provided that applicant deposit with it a \$22,500.00 certified check in the Dunbar case, a \$10,500.00 certified check in the Charves case and a \$5,500.00 certified check in the Kobida case. To enable it to deposit these checks, applicant intends to borrow the respective amounts, if necessary, from a bank or banks, issue its 6 per cent demand note or notes and secure the payment of said note or notes by the deposit of \$77,000.00 of its general lien mortgage bonds.

In Decision Number 1604, dated June 23, 1914, (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 1290) the Commission authorized San Francisco-Oakland Terminal Railway to issue \$1,000,000. of general lien mortgage bonds as collateral security for an issue of notes in the sum of \$650,000.00. In Exhibit No. 1, applicant reports that on June 25, 1918 \$774,000.00 of said general lien mortgage bonds were pledged to secure the payment of \$508,089.64 of notes, \$160,000.00 of said bonds were in <sup>its</sup> ~~the~~ treasury, while \$66,000.00 were in the hands of the Mercantile Trust Company of San Francisco, trustee.

The testimony shows that the general lien mortgage bonds which applicant desires to pledge will be deposited under a

collateral pledge agreement or agreements, which will provide that only in the event that San Francisco-Oakland Terminal Railways shall fail to pay the note or notes which it intends to issue, and only after the bank or banks to whom such note or notes have been issued, shall have exercised the banker's lien on money on deposit to the credit of San Francisco-Oakland Terminal Railways, shall such portion of the general lien mortgage bonds, and only such portion, be offered for sale as may be necessary to pay the balance due on the note or notes, together with the accrued interest thereon, and that upon the payment of the note or notes, together with interest the bonds herein authorized to be pledged as collateral shall be returned to applicant.

Under the circumstances set forth in the petition herein and as explained at the hearing, I recommend that this application be granted and herewith submit the following form of Order:

### O R D E R

SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS having applied to the Railroad Commission for authority to pledge \$77,000.00 face value of its general lien mortgage bonds for the purposes set forth in the foregoing Opinion, a public hearing having been held, and the Railroad Commission being of the opinion that this application, subject to the conditions herein contained, should be granted;

IT IS HEREBY ORDERED that San Francisco-Oakland Terminal Railways be, and it is hereby, granted authority to issue and pledge \$77,000.00 face value of its general lien mortgage bonds with a bank or banks as collateral security for the payment of a 6 per cent demand note or notes, the proceeds of said note or notes to be used in securing a \$22,500.00 certified check to be

deposited with the Maryland Casualty Company or other surety company for the purpose of obtaining the surety company to act as surety on an undertaking on appeal and stay bond in the Dunbar case referred to above; a \$10,500.00 certified check to be deposited with the Maryland Casualty Company or other surety company for the purpose of obtaining the surety company to act as surety on an undertaking on appeal and stay bond in the Charves case referred to above; and a \$5,500.00 certified check to be deposited with the Maryland Casualty Company or other surety company for the purpose of obtaining the surety company to act as surety on an undertaking on appeal and stay bond in the Kobida case referred to above.

The authority herein granted is granted upon the following conditions and not otherwise:-

1.-The agreement or agreements under which the bonds herein authorized to be issued are pledged shall provide that only in the event that San Francisco-Oakland Terminal Railways shall fail to pay the note or notes issued for the purpose of obtaining the certified check or checks referred to herein, and only after the bank or banks to whom said notes have been issued, shall have exercised the banker's lien on money on deposit, shall such portion of the general lien mortgage bonds, and only such portion, be offered for sale, as may be necessary to pay the balance due on said note or notes, together with the accrued interest thereon, and that upon the payment of the note or notes together with interest the bonds pledged as collateral shall be returned to applicant.

2.-Upon the return to applicant of the bonds herein authorized to be pledged, they shall be issued only upon further order from this Commission.

3.-Applicant shall file with the Railroad Commission within ten days after its execution a copy of each and every agreement under which any of the bonds herein authorized to be pledged are deposited.

4.-San Francisco-Oakland Terminal Railways shall keep separate, true and accurate accounts relative to the pledging of the bonds herein authorized and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission relative to the pledging of said bonds in accordance with the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5.-The authority herein granted shall apply only to such bonds as shall have been pledged on or before December 1, 1918.

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 27<sup>th</sup> day of June, 1918.

Erwin C. Egan

Alvin G. ...

Francis ...

Commissioners.