

Decision No. 26298

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CONSOLIDATED SHIPPERS, INC.) Application No. 18969
for authority to issue stock.)

Hugh Gordon, for applicant.

BY THE COMMISSION:

OPINION

ORIGINAL

Consolidated Shippers, Inc. asks permission to issue \$23,400.00 of common stock to pay indebtedness.

Applicant is a California corporation and commenced business in February, 1932. It is engaged in the business of transportation of freight by auto truck as a common carrier between Los Angeles, Colton and San Bernardino on the one hand and all points between Yermo and the Nevada-California state line near Wheaton Springs on the other hand, under and pursuant to a certificate of public convenience and necessity granted by the Railroad Commission by Decision No. 25545 dated January 16, 1933, in Application No. 18364. It is also engaged in the business of the transportation of freight by auto truck and over rail lines between Los Angeles and points in Nevada and Arizona, which operation is wholly interstate. It is of record that less than one percent of applicant's business is conducted under the certificate of public convenience and necessity granted by the Railroad Commission.

As of May 31, 1933 applicant reports its assets and liabilities as follows:-

A S S E T S

Fixed assets	\$ 7,671.75
Current assets	7,563.97
Prepayments	709.47
Deficit	<u>20,328.47</u>
 TOTAL ASSETS.....	 <u>\$36,273.66</u>

L I A B I L I T I E S

Accounts payable	\$ 3,055.45
Accrued expense	157.46
Accrued insurance	96.26
Accrued salaries	11,855.51
Due F. M. Hodge	11,581.52
Accrued taxes	1,626.30
C. O. D.'s payable	2,657.50
C. O. D.'s assumed	2,943.66
Notes payable	<u>2,300.00</u>
 TOTAL LIABILITIES.....	 <u>\$36,273.66</u>

The testimony shows that F. M. Hodge has advanced to applicant in cash the sum of \$10,722.80, which, together with interest of \$858.72, aggregates \$11,581.52. It further shows that there is due on unpaid salaries the sum of \$11,855.51. The employees to whom this sum is due have agreed to accept stock of applicant corporation in payment of the same. It further shows that applicant did not assume the \$2,943.66 of C.O.D.'s and that it will not pay the same.

Applicant's balance sheet shows a deficit of \$20,328.47. It is of record that during the past few months applicant has operated at a profit. It is suggested that applicant had to do considerable pioneering work in establishing its business and that the expenditures for such purpose should be regarded as working

capital and/or development expense.

Section 6 of the Auto Stage and Truck Transportation Act provides that no transportation company may issue any stock unless

"such transportation company, in addition to the other requirements of the law, shall first have secured from the Railroad Commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or proceeds thereof are to be applied and that, except as otherwise permitted in the order in the case of bonds, notes and other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income."

It occurs to us that part of the indebtedness which applicant desires to pay through the issue of stock was incurred because of operating losses. Under the law as we interpret the same, it is doubtful whether the Commission has authority to authorize the issue of stock to pay operating losses. Even if it did have such authority, we believe that it should be exercised only under exceptional circumstances. We believe that in this instance the stock issue should be limited to \$13,000.00 par value. This stock may be issued for the purpose of paying \$13,000.00 of indebtedness. If the earnings of the company increase, as indicated at the hearing, applicant should be able to pay the balance of the indebtedness out of surplus earnings. Such balance should not be financed through the issue of stock.

ORDER

Consolidated Shippers, Inc. having asked permission to issue 234 shares (\$23,400.00) of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$13,000.00 of such stock is reasonably required by applicant for the purpose of paying indebt-

edness and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application for permission to issue \$10,400.00 of stock should be denied without prejudice, therefore,

IT IS HEREBY ORDERED, that Consolidated Shippers, Inc. be, and it is hereby, authorized to issue and sell on or before October 1, 1933, at not less than par, 130 shares (\$13,000.00 par value) of its common capital stock for the purpose of paying in whole or in part the indebtedness due F. M. Hodge and, in whole or in part, the accrued salaries referred to in the foregoing balance sheet.

IT IS HEREBY FURTHER ORDERED, that this application, insofar as it involves the issue of \$10,400.00 par value of common stock, be, and the same is hereby, denied without prejudice.

IT IS HEREBY FURTHER ORDERED, that Consolidated Shippers, Inc. shall keep such record of the issue, sale and delivery 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.

DATED at San Francisco, California, this 28th day of August, 1933.

CL Jerny
Leon C. White
M. A. Cum
M. B. Harris

Commissioners