

Decision No. 25498

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of JAMES A. ROSS, doing business under the name and style of JIM ROSS LIVE-STOCK TRANSPORTATION to have transferred to him an automotive freight line operated between various points in the State of California for the transportation of livestock.

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**ORIGINAL**

Application No. 19067

Rex W. Boston, for James A. Ross  
Elmer P. Bromley and H. E. Lindersmith  
for Joe Garcia, an interested party.

CARR, Commissioner:

ORDER OF DISMISSAL

Applicant Ross requests an order transferring to him certain operative rights and property heretofore authorized to be transferred from Edward H. Marxen, as Trustee of the Estate of H. C. Greve, Bankrupt, to I. J. Nathan. (Decision 25335, Application 18493, November 7, 1932.) Hearing was had on October 26, 1933. According to applicant, Nathan, as his confidential agent and representative, negotiated and entered into an agreement of sale with the above Trustee, whereby applicant, through his agent Nathan, purchased from the Trustee the operative rights and property belonging to the estate of the bankrupt. On October 21, 1932 the Federal Court entered an order confirming the sale from the Trustee

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to Nathan. Subsequently the Trustee and Nathan joined in an application before this Commission for authorization to transfer the rights and properties to Nathan, which was granted.

Applicant testified that he paid the purchase price in its entirety; that Nathan carried on the negotiations on his behalf because he did not desire at that time that his identity as purchaser be revealed generally; that it was understood between applicant and Nathan that the property acquired was to be the exclusive property of applicant; that it was understood and agreed that after the transfer to Nathan, the latter would join in an application to this Commission for authority to transfer the rights and property to applicant or to a corporation to be formed by applicant; and that in the latter part of February, 1933 Nathan suddenly disappeared and cannot be found.

Applicant alleges that because of the unexplained disappearance of Nathan applicant is deprived of title to his property, and prays for an order transferring the rights and properties in question to applicant. Under the circumstances shown it may be that applicant is the beneficial owner of the rights and properties, and that the transaction has created a "resulting trust". (Thompson v. Bank of California, 4 Cal. App. 660; Lezinsky v. Mason Malt W. D. Co., 185 Cal. 240.) This, however, is a matter for determination in the courts, rather than by this Commission. The Commission has heretofore held that it is not the proper tribunal to determine title to property. (Re P. G. & E. Co., 16 C.R.C. 184; Re W. J. Hole, 18 C.R.C. 588.)

IT IS HEREBY ORDERED that the above application

(1) Matter of H. C. Greve, doing business under fictitious firm name and style of H. C. Greve Livestock Transportation Company, Bankrupt, No. 19014-J; District Court of the United States, So. Dist. of California, Central Division.

is hereby dismissed for lack of jurisdiction.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6<sup>th</sup> day of November 1933.

C. Leamy  
Leon C. Wilson  
V. H. A. C. C.  
W. B. C. C.  
M. H. C. C.  
Commissioners