

Decision No. 20795**ORIGINAL**

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 Joe Garcia to sell and Cantlay & Tanzola, )  
 Inc. to purchase an automobile freight )  
 line operated in the State of California, )  
 within the area bounded by the terminal )  
 points of Santa Maria, Fresno, Bishop, )  
 Imperial Valley, including Calexico, and )  
 San Diego and stock yards and packing )  
 houses and feed yards in and about Los )  
 Angeles, over certain routes and ten )  
 miles on either side thereof. )

Application No. 20797

BY THE COMMISSION:

O P I N I O N

Joe Garcia, an individual, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Cantlay and Tanzola, Inc. of an operating right for the automotive transportation as a highway common carrier of livestock only and on-call only to and from ranches, packing houses, feed yards and stock yards within the area bounded by the terminal points of Santa Maria, Fresno, Bishop, Imperial Valley, including Calexico, and San Diego, and stock yards and packing houses and feed yards in and about Los Angeles, over certain routes and ten miles on either side thereof and Cantlay & Tanzola, Inc. have petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$23,500. Of this sum

\$22,500 is alleged by the applicant to be the value of the equipment and \$1,000 is alleged to be the value of the intangibles.

Under the agreement, Garcia received \$500, \$13,000 is to be paid in escrow by Cantlay and Tanzola, Inc. and the balance of \$10,000 represents the balance due on three unpaid contracts covering purchase of four trucks and two trailers payment of which is to assumed by Cantlay & Tanzola.

The operating right herein proposed to be transferred was created by Decision No. 26505, dated November 6, 1933, on Application No. 19063.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

Cantlay and Tanzola, Inc. 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.

#### ORDER

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, 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 for any purpose other than the transfer herein authorized.

2. Applicant Joe Garcia shall within twenty (20) days after the effective date of the order herein unite with applicant Cantley and Tanzola, Inc. in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Joe Garcia withdrawing and applicant Cantley and Tanzola, Inc. accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Joe Garcia shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant Cantley and Tanzola, Inc. shall within twenty (20) days after the effective date of the order herein file, in duplicate, in its own name time schedules covering service heretofore given by applicant Joe Garcia which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Joe Garcia 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 obtained.

5. No vehicle may be operated by applicant Cantley and Tanzola, Inc. unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. The authority herein granted to sell and transfer the right and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of  
October, 1936.

M. B. Harris

Leon Whidley

Frank P. White

COMMISSIONERS.