

Decision No. 31136

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ALDEN PARKER ASHTON
to sell and Fred B. Gray to purchase
a motor truck freight line operated
between Los Angeles and Los Angeles
Harbor, California.

Application No. 22073

ORIGINAL

F. W. Turcotte, for Alden Parker Ashton
Shaw, Bailey & Poe, by Arlo D. Poe,
for Fred B. Gray.

BY THE COMMISSION:

O P I N I O N

This is an application for an order authorizing Alden Parker Ashton to sell to Fred B. Gray certain motor truck operating rights and properties.

It appears that Alden Parker Ashton, doing business under the firm name and style of Ashton Truck Company, is engaged in the operation of motor trucks for the transportation of property for compensation between the City of Los Angeles and the steamship wharves and docks located at Los Angeles Harbor. The operating rights under which the service is conducted were obtained by the present owner by reason of operations commenced prior to May 1, 1917 and were recognized by the Commission by Decision No. 12823, dated November 14, 1923, in Case No. 1871. (Vol. 24, Opinions and Orders of the Railroad Commission of California, page 116.)

The present application shows that Alden Parker Ashton has made arrangements to sell his operating rights, together with other properties, to Fred B. Gray. The properties to be thus transferred are described in an agreement between the two parties, dated May 20, 1938, a copy of which is attached to the application

as "Exhibit A", as follows:-

All right, title and interest in and to his application for a certificate authorizing common carrier service between Los Angeles and Los Angeles and Long Beach Harbors being application bearing I.C.C.Docket No. MC 42473.

Operative right authorizing motor truck transportation service as a common carrier in intrastate commerce between Los Angeles and Los Angeles Harbor as confirmed by the California Railroad Commission in its Decision No. 12823 in Case No. 1871.

1929-	3 $\frac{1}{2}$	ton 3 axle	International Truck
1929-	3 $\frac{1}{2}$	ton 3 axle	Stewart Truck
1931-	3 $\frac{1}{2}$	ton 3 axle	Stewart Truck
1929-	3	ton 2 axle	Stewart Truck
1935-	1 $\frac{1}{2}$	ton 2 axle	Ford V8 Truck
1938-	2 $\frac{1}{2}$	ton 2 axle	White truck
1927-	1 $\frac{1}{2}$	ton 2 axle	Gottfreson Truck
1928-	1 $\frac{1}{2}$	ton 2 axle	Stewart Truck
1929-	5	ton 3 axle	solid tire Doane Truck
1923-	2 $\frac{1}{2}$	ton 2 axle	solid tire Autocar Truck
1935-			Ford tractor
1935-			Semi and Hi Way Trailer
1924-	10	ton 2 axle	Hercules Trailer
1930-	9	ton 2 axle	Utility Trailer

All accessory equipment used in connection with the above listed vehicles including tarpaulins, ropes, chains, tires, rims, wheels and all office furniture and equipment including safe, check protector, typewriter, filing cabinets, desks, chairs, and the good will and trade name of the business now conducted by Seller under the name of Ashton Truck Company.

The agreed consideration to be paid by the purchaser is the sum of \$10,000., payable \$1,000. in cash upon execution of the agreement; \$2,160.29 by the assumption of encumbrances upon certain of the motor vehicles, and the balance of \$6,839.71 in monthly installments of \$100. or more commencing June 19, 1938, with interest on the unpaid balance of the purchase price at the rate of 4 per cent per annum. The encumbrances to be assumed consist of chattel mortgages or conditional sales contracts, each payable in twelve monthly installments.

In our opinion the agreement, providing as it does for payments over a period of more than twelve months, is an evidence of

indebtedness coming within the definition set forth in Section 52(b) of the Public Utilities Act and as such requires the approval of the Commission which will call for the payment of the minimum fee prescribed by Section 57 of the Act. The order herein accordingly will authorize the execution of the agreement and the transfer of the operating rights and properties insofar as this Commission has jurisdiction.

In making the order we wish to place the purchaser upon notice that operating rights do not constitute a class of property to 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

Application having been made for permission to transfer operating rights and properties, as indicated in the foregoing opinion, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted, as herein provided,

IT IS HEREBY ORDERED, that Alden Parker Ashton be, and he hereby is, authorized to sell and transfer to Fred B. Gray the operating rights and properties described in this application, such transfer to be in accordance with the terms of the agreement dated May 20, 1938, filed in this proceeding as Exhibit A, which agreement Alden Parker Ashton and Fred B. Gray are hereby authorized to execute.

The authority herein granted is subject to the following conditions:-

1. Alden Parker Ashton and Fred B. Gray, within twenty(20) days after the effective date of this order, shall join in common supplement to the tariff now on file with the Railroad Commission in the name of Alden Parker Ashton, said Ashton on the one hand withdrawing and said Gray on the other hand adopting and establishing as his own such tariff and all effective supplements thereto.

2. The rights and privileges herein authorized to be transferred may not be discontinued, sold, leased nor assigned hereafter, unless the written consent of the Railroad Commission to such action has first been secured.

3. No vehicle may be operated by Fred B. Gray unless such vehicle is owned by him or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. Alden Parker Ashton shall within twenty(20) days after the effective date of this order, withdraw all time schedules filed in his name with the Railroad Commission and Fred B. Gray shall, within twenty(20) days after the effective date of this order, file in duplicate in his own name, time schedules covering service heretofore given by Alden Parker Ashton, which time schedules shall be identical with the time schedules now on file with the Commission in the name of said Ashton, or time schedules satisfactory to the Commission.

5. The consideration to be paid for the properties herein authorized to be transferred shall never be urged before this Commission as a measure of the value of said property for rate fixing purposes.

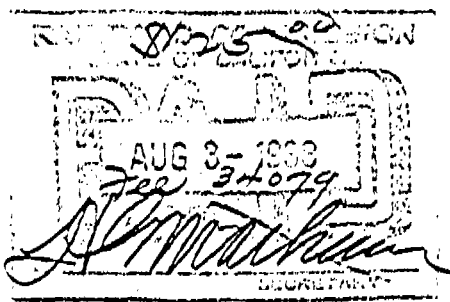
6. The authority herein granted to sell and transfer properties shall lapse and be void if the parties hereto shall not have complied

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.

7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter comply with all of the provisions of this Commission's General Order No. 91.

8. The authority herein granted shall become effective when the minimum fee prescribed by Section 57 of the Public Utilities Act has been paid, which fee is Twenty-five (\$25.00) Dollars.

DATED at San Francisco, California, this 1st day of August, 1938.



Raymond P. [Signature]
John A. [Signature]
Frank [Signature]

W. L. Riley
Commissioners.