

Decision No. 32700

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CONSOLIDATED CARGO COMPANY,
for a permit authorizing it to issue
capital stock, and to place a chattel
mortgage upon personal property used
in carloading business.

ORIGINAL

Application No. 23158

William Farnum White, for applicant.

BY THE COMMISSION:

O P I N I O N

This is an application by Consolidated Cargo Company, a corporation, for an order authorizing it to issue 1,000 shares of its capital stock and to execute a chattel mortgage.

Consolidated Cargo Company is a corporation organized on or about August 31, 1939 under the laws of the State of California. It has an authorized common stock issue of 2,500 shares without par value. It reports that it intends to engage in the business of carloading and car unloading, primarily upon the water front of San Francisco. Heretofore it has filed with the Commission its schedule of rates, issued November 18, 1939, effective December 18, 1939, naming rates, charges, rules and regulations governing carloading and unloading applying on piers and terminals in the San Francisco Bay District and Stockton.

The record in this proceeding shows that on November 29, 1939, the company issued a promissory note to W. F. White

and W. E. Hanson in the principal amount of \$500, payable one year after date with interest at the rate of ten per cent per annum, for the purpose of financing, in part, its organization expenses and the cost of certain equipment. In this connection it reports that it has purchased, for \$356.35, a 1936 Ford delivery truck on a conditional sales contract with \$146.35 as a down payment and the balance of \$210 payable in twelve monthly installments, and that it has purchased for \$300, other properties consisting of office equipment, a 1931 Ford 1-1/2 ton truck with express body, hand trucks and miscellaneous carloading gear. Of the purchase price, \$150 was paid in cash and the balance was represented by a one year, non-interest bearing note for \$150. In addition, the company reports, as of November 1, 1939, prepaid expense items of \$148.15 and organization expenses, exclusive of attorney's fees, of \$21.90.

Applicant now proposes to execute a chattel mortgage to secure the payment of the \$500 note issued on November 29, 1939. It has filed a copy of the proposed chattel mortgage with the Commission as Exhibit C in this proceeding.

While it is true that applicant, subject to the provisions of Section 52 of the Public Utilities Act, may issue an unsecured promissory note payable on or before twelve months after date of issue without securing the consent of this Commission, it may not execute a mortgage or other encumbrance upon its properties used in its public utility operations, without first being authorized by this Commission to do so. While we have no objection to the form of the proposed chattel mortgage, we do not look with favor upon the issue of a note carrying interest at the rate of ten per cent per annum. We are willing to authorize the execution of said chattel mortgage, provided that applicant will make arrangements for the reduction of the

interest rate on the note to not exceeding six per cent per annum.

In addition to the note financing applicant proposes, and asks permission, to issue 1,000 shares of its common capital stock, without nominal or par value, for consideration as follows:

334 shares of capital stock to W. L. Marr, as part consideration for his employment as general manager of Applicant; other consideration being an agreement to employ said W. L. Marr as general manager at a salary of \$35.00 per week; in consideration of said 334 shares of stock and said weekly salary W. L. Marr has promised in writing to devote his exclusive time to the management of said Applicant corporation.

333 shares of capital stock to W. F. White for the sum of \$250.00 cash;

333 shares of capital stock to W. E. Hanson for the sum of \$250.00 cash.

Thus, through the issue of the 1,000 shares of stock, applicant will receive in cash the sum of \$500 which it proposes to use, along with the \$500 received through the issue of the one year note, for the following purposes:

For part payment of the herein-referred to 1936 Ford truck, being purchased on a conditional sales contract	\$ 242.85
For purchase of office equipment, carload- ing gear and 1931 Ford truck	300.00
For maintaining service of carloading pending collection of charges for service.	<u>157.15</u>
	<u>\$1,000.00</u>

It has not been the general policy of the Commission to authorize the issue of stock without nominal or par value at such a low price per share as appears in this proceeding. Furthermore, in our opinion, the Commission cannot authorize the issue of stock in payment for services to be rendered by the company's general manager as here proposed.

We believe applicant's no par stock should be issued on a basis of \$25.00 a share. The order herein will authorize

applicant to issue twenty shares of stock. The shares may be divided amongst applicant's organizers as they deem appropriate.

O R D E R

Consolidated Cargo Company having applied to the Railroad Commission for authority to execute a chattel mortgage and to issue 1,000 shares of stock without nominal or par value, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that applicant should be authorized to execute a chattel mortgage and to issue twenty shares of stock only under the conditions and for the purposes set forth herein, that the money, property or labor to be procured or paid for through such issue of stock is reasonably required for such purposes and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED that Consolidated Cargo Company be, and it hereby is, authorized to execute a chattel mortgage, in or substantially in the same form as that filed in this proceeding as Exhibit C, provided -

1. That the terms of the one year \$500 note whose payment is to be secured by said chattel mortgage, are amended so as to provide for interest at not exceeding six per cent per annum; and

2. That the authority herein granted to execute a chattel mortgage is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of such chattel mortgage as to such other legal requirements to which it may be subject.

IT IS HEREBY FURTHER ORDERED that Consolidated Cargo Company be, and it hereby is, authorized to issue, on or before February 29, 1940, not exceeding twenty shares of its common capital stock, without nominal or par value, on the basis of \$25 a share, for the purpose of paying in part organization expenses, of financing the cost of equipment and of providing working capital.

IT IS HEREBY FURTHER ORDERED that Consolidated Cargo Company shall file with the Commission a copy of the chattel mortgage, as executed, within ten days after such execution, and a statement or statements showing the amount of stock issued, the names of the person or persons to whom issued, the consideration received and the purposes for which the proceeds received through such issue were used, such statement or statements to be filed monthly until all of said stock has been issued and the proceeds expended.

IT IS HEREBY FURTHER ORDERED that the application, insofar as it involves the issue of the remaining 980 shares of stock, be, and it hereby is, dismissed without prejudice.

Dated at San Francisco, California, this 2nd day
of January, 1940.

Ray L. Riley
James D. DeWitt
Robert W. Johnson
H. B. M.
Justus J. Casper
COMMISSIONERS.