

Decision No. 36354

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

.....)
 In the Matter of the Application)
) of)
 RICHARDS TRUCKING & WAREHOUSE CO.,)
 a corporation, for an order author-)
 izing the issuance of an evidence of)
 indebtedness.)

Application No. 25602

BY THE COMMISSION:

O P I N I O N

Richards Trucking & Warehouse Co., hereinafter sometimes referred to as Richards Trucking, asks permission to execute an agreement under the terms of which, among other things, it agrees to execute and deliver to Pacific Mutual Life Insurance Company, hereinafter sometimes referred to as Pacific Mutual, a stipulation that a judgment may be entered by the Superior Court of California in and for the County of Los Angeles in that action entitled Pacific Mutual Life Insurance Company, a corporation, Plaintiff, v. Richards Trucking & Warehouse Co., a corporation, Defendant (Case 477833), for the sum of \$12,500 in favor of Pacific Mutual and against Richards Trucking. A copy of the agreement is filed in this application as Exhibit A. It will be executed for the purpose of compromising and settling without further litigation differences between Richards Trucking and Pacific Mutual arising out of the transaction to which reference is made hereafter.

In 1931 Pacific Mutual loaned to Richards Trucking \$35,000, payable in installments with a final payment of \$22,250 on June 1, 1942. The payment of the loan, represented by a note, was secured by a deed of trust on real property owned by Richards Trucking. On or about January 15, 1942 Richards Trucking was in default in payments due on the note. Pacific Mutual thereupon proceeded to sell the property on which the deed of trust was a lien. It did sell such property for the sum of \$10,000 and applied the proceeds of the sale, after deducting trustee's fees and costs of sale in the amount of \$534.24, on the amount then due and payable under said note, leaving a balance unpaid of \$18,376.57. On or about June 17, 1942 Pacific Mutual commenced the action to which reference has been made for the purpose of recovering the \$18,376.57, plus interest and costs. Richards Trucking contends that the property sold for \$10,000 was worth not less than \$26,000 and that it was entitled to be credited with the sum of \$26,000 pursuant to the provisions of Section 580a of the Code of Civil Procedure of the State of California. It further contends that the sale was premature for the reason that said note was not due and payable in its entirety until June 1, 1942. In order to compromise and settle their differences Richards Trucking and Pacific Mutual have entered into the agreement filed in this application as Exhibit A. Under this agreement Richards Trucking agrees that concurrently with the execution of the agreement it will execute and deliver to Pacific Mutual a stipulation that a judgment may be entered in the said Superior Court action for the sum of \$12,500 in favor of Pacific Mutual and against Richards Trucking. Upon the execution of the agreement Richards Trucking will pay Pacific Mutual \$800. The \$12,500 judgment will be paid as follows: the sum of \$150 or more on or before the 10th days of May, June, July, August and September, 1943, and the sum of \$250 or more on or before the 10th day of each succeeding month commencing October 10, 1943, and continuing until Richards Trucking shall be entitled, pursuant to the provisions of the

agreement, to a satisfaction of the judgment entered by stipulation in said Superior Court action. Under the agreement the judgment will be satisfied in its entirety if Richards Trucking pays Pacific Mutual \$5,000 on or before March 2, 1944, plus interest at the rate of 5% per annum, computed and paid as provided in the agreement. If Richards Trucking does not pay or tender to Pacific Mutual the sum of \$5,000 before March 2, 1944 it may satisfy the judgment by paying to Pacific Mutual, on or before September 2, 1945, the sum of \$7,500 plus interest. If said \$7,500 is not paid on or before September 2, 1945 the balance then due on the judgment becomes immediately due and payable on September 2, 1945. In the event Richards Trucking fails to make the installment payments, Pacific Mutual may elect to declare immediately due the unpaid portion of the full amount of the judgment of \$12,500, entered by stipulation in the Superior Court action, and shall be free to take any steps or action available to it to enforce payment of the unpaid portion of the full amount of the judgment entered by stipulation in the Superior Court action.

O R D E R

The Commission having considered the application of Richards Trucking & Warehouse Co. and it being of the opinion that this is not a matter on which a hearing is necessary; that the money, property or labor to be procured or paid for by the execution of said agreement by Richards Trucking & Warehouse Co. is reasonably necessary for the purpose of compromising and settling litigation and that this application should be granted, therefore,

IT IS HEREBY ORDERED that Richards Trucking & Warehouse Co. be, and it is hereby, authorized to execute and deliver, on or before September 1, 1943, an agreement similar in form to the agreement filed in this application as Exhibit A for the purpose of compromising and settling litigation

and paying indebtedness to which reference is made in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the execution of said agreement Richards Trucking & Warehouse Co. shall file with the Railroad Commission a true and correct copy of the agreement executed under the authority herein granted.

Dated at San Francisco, California, this 18th day of May, 1943.

Francis R. Havens
M. L. K. M.
Justin J. Trayner
Richard C. Cochrane
Frank W. Brown
Commissioners