

Decision No. 36420

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
PEARL M. VANDERVORT, as special  
administratrix of the estate of WALTER  
S. VANDERVORT, deceased, to sell and  
R.F. MARTIN to purchase an automobile  
passenger line operated between Redwood  
City, California and Palo Alto, California.)

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) Application No. 25570  
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**ORIGINAL**

BY THE COMMISSION:

**O P I N I O N**

The application herein requests authorization for the transfer of a passenger stage operative right between Redwood City and Palo Alto, together with an International seventeen-passenger bus, from Pearl M. Vandervort, as Special Administratrix of the estate of Walter S. Vandervort, to R. F. Martin. The certificate authorizing such service, issued in 1932 (Decision No. 25081, Application No. 18260), was acquired by Walter S. Vandervort pursuant to authorization granted in Decision No. 31277, Application No. 22197. Applicant Martin now operates bus service within the corporate limits of Redwood City, which service he proposes to coordinate with the Vandervort service.

The total consideration involved is \$7,000. The applicants assert that \$3,500 of this sum represents the value of the operative right, and the remainder the value of the equipment. Such may be the understanding between the parties, but it should be clearly understood that the authorization hereinafter granted is not an approval of the purchase price, in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities, accounting, or for any other purpose. No examination has been made by this Commission, nor by its authorized representatives, of the physical assets involved in this transfer as to their existence, value or ownership.

R. F. Martin is placed upon notice that "operative rights"

as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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.

Applicant Martin asks permission to issue to the First National Bank of San Mateo County at Redwood City his note for \$7,056, for the purpose of financing the purchase of the properties to which reference is made herein. The principal sum of the note is \$6,300, to which the bank has added discount of \$756, which is interest computed at the rate of 6 per cent for the 24-month period during which the note is payable. The note is payable in twenty-four equal successive monthly installments of \$294 or more each, beginning May 20, 1943.

The payment of the note will be secured by a mortgage of chattels which will be a lien on seven motor buses, including the bus which applicant Martin intends to acquire from the estate of Walter S. Vandervort. A copy of the mortgage of chattels is on file. It is being executed to secure the payment of a total indebtedness of \$17,920, plus such additional sums as the mortgagee may advance to the mortgagor. The difference between the said \$17,920 and the said note of \$7,056 is the balance due on a note previously issued by applicant Martin.

Public hearing appears unnecessary, and the requested authorizations will be granted.

O R D E R

The Commission being of the opinion that the promissory note is an evidence of indebtedness payable in part at more than one year after date; that the money, property and labor to be procured or paid for by its execution is reasonably required by R. F. Martin to conduct his passenger stage service, and good cause appearing,

IT IS ORDERED:

(1) That Pearl M. Vandervort, as special administratrix of the estate of Walter S. Vandervort, deceased, may sell and transfer to R. F. Martin the equipment referred to in the application and the passenger stage operative right heretofore acquired by said Walter S. Vandervort under the authority of the Commission's Decision No. 31277, on Application No. 22197. R. F. Martin may acquire said equipment and operative right . and hereafter operate thereunder.

(2) That R. F. Martin, after the effective date hereof and on or before June 30, 1943, and for the purpose of financing in part the above purchase, may issue his promissory note for the sum of not exceeding \$7,056, said note to be in substantially the same form as the note filed in this application as Exhibit "D;" and shall within thirty (30) days of the issue of such note file with the Commission a true and correct copy thereof.

(3) That R. F. Martin, after the effective date hereof and on or before June 30, 1943, may execute a mortgage of chattels in substantially the same form as the mortgage of chattels filed in this application on April 19, 1943, provided that the authority herein granted to execute said mortgage of chattels is for the purpose of this proceeding only, and is granted only in so far as

this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage of chattels as to such other legal requirements to which said mortgage of chattels may be subject.

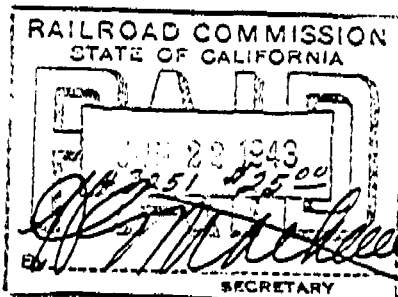
(4) That the authority herein granted is subject to the provisions of section 52(b) of the Public Utilities Act, and further to the condition that R. F. Martin, his successors and assigns, shall never claim before this Commission, or any court or other public body, a value for said operative right, or claim as the cost thereof an amount in excess of that paid for said right by the original grantee thereof.

(5) That applicants shall comply with the rules of the Commission's General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time tables satisfactory to the Commission within sixty (60) days from the effective date hereof, and on not less than five (5) days' notice to the Commission and the public.

(6) That the authority herein granted shall become effective upon payment of the minimum fee of \$25.00 prescribed by section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 8<sup>th</sup> day of June, 1943.


Francis D. Havener



Richard L. Baker  
Commissioners

By Commissioner Craemer

I concur in the result only, for the  
reasons briefly expressed in my concurring opinion  
rendered this day on Application No. 25532.

  
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Justus F. Craemer  
Commissioner