

DECISION NO. 36990

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FORREST F. SULLIVAN, an individual)
 doing business as RED LINE EXPRESS,)
 to sell, and ROBERT SNOWDEN, an)
 individual, to purchase, a highway)
 common carrier certificate of public)
 convenience and necessity to operate)
 an automotive truck service between)
 Los Angeles, California, and Lancaster,)
 California, serving the intermediary)
 points of Newhall, Saugus, Mint Canyon,)
 Vincent, Harold and Palmdale, all in)
 California.)

ORIGINAL

Application No. 26002

HERBERT CAMERON, for applicant Sullivan.

ARTHUR H. GLANZ, for applicant Snowden.

CLARK, Commissioner:

O P I N I O N

In this proceeding authority is sought to purchase a highway common carrier operative right together with certain equipment. The certificated rights under consideration involve an operation between Los Angeles and Lancaster, conducted under the name of Red Line Express.

A public hearing was held in this matter at Los Angeles on March 10, 1944.

The right proposed to be transferred was created by Decision No. 8593, dated January 26, 1921, in Application No. 6340, and after successive transfers acquired by applicant Sullivan under the authority of Decision No. 27135, rendered June 7, 1943, in Application No. 19467.

With respect to the terms of the agreement covering the proposed transfer of the operative right together with certain equipment, the program outlined in the original application was modified by supplemental application which provides that:

Total consideration to be paid for the equipment and operative right, \$30,000.

\$18,000 to be paid at the time title passes from Sullivan to Snowden.

\$12,000 to be covered by chattel mortgage to be paid off at the rate of \$550 per month plus 4 per cent interest on the unpaid balance.

Title to the property and the operative right to pass from Sullivan to Snowden upon the approval of the transfer by the California Railroad Commission.

The physical property to be transferred consists of eight units of trucking equipment and miscellaneous office and truck facilities. The present-day value of this equipment was estimated by Sullivan to be approximately \$14,500, segregated as follows:

Equipment	\$12,500 to \$15,000
Tarpaulins	300
Stationery	250 to 300
Office Equipment	150

Mr. Sullivan testified that all the office records were lost as a result of a fire in 1942 and, therefore, he was unable to give a detailed statement of the earlier operating results or the original cost and depreciation of the property to be transferred.

Mr. Snowden estimated the value of the truck equipment to be in excess of \$10,000.⁽²⁾ He also placed a price of \$10,000 on good will and going concern value of the business and the remainder of the \$30,000 on the certificated rights to be transferred.

At the conclusion of the hearing both applicants agreed that \$12,000 would represent a reasonable present-day value of the physical properties to be transferred.

The operating results of the Red Line Express were shown as follows:

	<u>1940</u>	<u>1941</u>	<u>1942</u>	<u>1943</u>
Gross Revenue	\$21,360	\$27,486		\$47,000
Operating Expense	21,026	23,818		42,000
Operating Income	\$ 334	\$ 3,668	\$ 5,000*	\$ 5,000

* Estimated - records destroyed by fire.

Applicant Sullivan is the sole owner of the Red Line Express which constitutes his only trucking operation. He stated that the reason he desired to sell the property was to devote all his time to his ranch after spending twenty years in this trucking business, developing it from a small concern with little in way of profits to its present volume of business. He attributes the

(2) Snowden's estimate of trucking equipment to be transferred is as follows:

<u>No. Units</u>	<u>Make</u>	<u>Year</u>	<u>Type</u>	<u>Capacity</u>
1	Mack Jr.	1936	Truck	2½ tons
1	Dodge 6	1941	Tractor	1½-2 tons
1	Freuhauf	1936	Semi-Trailer	15 tons, 2 axle
1	GMC 6	1937	Tractor	2½-3 tons
1	Ace	1936	Semi-Trailer	15 tons, 2 axle
1	Int'l. 6	1937	Truck	3½-5 tons
1	Weber (Remodeled)	1929	Full Trailer	11-12 tons, 3 axle
1	Graham 6	1929	Truck	1½ tons

success he has had in this operation to working long hours and giving the public good, dependable service. His particular field of operation is more or less free from competition as it is the only highway common carrier between Los Angeles and Lancaster, and certain intermediate points, conducting a certificated operation, transporting general commodities excepting milk, cream, dairy products and supplies. The only other common carrier of general commodities to certain points served by Sullivan is the Southern Pacific Company with its rail operations supplemented by Pacific Motor Trucking Company's pick up and delivery truck service.

Applicant Snowden testified that he had been conducting a contract and radial highway common carrier operation between Los Angeles and San Francisco over a period of eight years prior to February, 1944, when he divested himself of control. This operation was conducted under the name of Snowden Transportation, Inc. He stated that he now has in excess of \$40,000 in cash in addition to his home, automobile and an interest in the assets of the Snowden Transportation, Inc. which has a value in excess of \$20,000. If the proposed transfer is effected, it is his plan to maintain station facilities at both Los Angeles and Lancaster and to replace the existing trucking equipment with larger and more modern vehicles, when available.

The law has required applicant Sullivan and his predecessors to pay, in connection with this operative right a sum of \$350.

If applicant Snowden acquires said operative right, together with the said equipment, and pays therefor the sum of \$30,000, he may charge to Intangible Capital a sum not in excess of \$350 and to Tangible Capital a sum not in excess of \$12,000. The remainder should be charged to Proprietors Investment Account.

The Commission is of the opinion that authorization for the transfer is in the public interest and that the application should be granted. The order following will be in accordance with that finding.

Robert Snowden 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.

O R D E R

A public hearing herein having been had and the Commission now being fully informed herein, and good cause appearing;

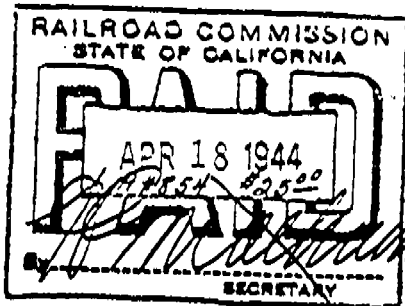
IT IS ORDERED as follows:

- (1) That Forrest F. Sullivan, doing business as Red Line Express, is authorized to sell and transfer, and Robert Snowden to purchase and acquire the operative rights and equipment referred to in the foregoing opinion and thereafter to operate thereunder, and said Robert Snowden is authorized to execute and deliver to Forrest F. Sullivan a promissory note in the principal amount of \$12,000, secured by a chattel mortgage, upon the terms and conditions set out in the within application. Copies of said promissory note and mortgage are to be filed with the Commission upon their execution and delivery.
- (2) That if applicant Snowden acquires said operative right, together with the equipment, and pays therefor the sum of \$30,000, he may charge to Intangible Capital a sum not in excess of \$350 and to Tangible Capital a sum not in excess of \$12,000. The remainder should be charged to Proprietors Investment Account.
- (3) That applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof, and on not less than one day's notice to the Commission and the public.
- (4) That in the event the authority to transfer is exercised, Robert Snowden shall notify this Commission within ten (10) days of the actual date of the transfer.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

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

Dated at Los Angeles, California, this 11th day of April, 1944.



Richard Kachse

Justin F. Cooney

Frank R. Havens

Justin F. Cooney

Wm. C. ...
Commissioners