

Decision No. 38775

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of )  
R. H. CAPLAN, an individual, to sell )  
and EARL CURTIS, an individual, to )  
buy the certificate of public con- )  
venience and necessity, automotive )  
equipment and business owned and )  
operated by R. H. CAPLAN under the )  
name of STANISLAUS STAGE LINE. )

Application No. 27210

O P I N I O N

In this proceeding, R. H. Caplan, doing business as Stanislaus Stage Line, seeks authority to transfer to Earl Curtis, and the latter proposes to acquire from the former, an operative right as a passenger stage corporation, the equipment used in conducting the service, and the good will of the business. Caplan is authorized, under a certificate which he now holds, to engage in the transportation of passengers, baggage and express (limited to shipments not exceeding 100 pounds each, carried on passenger vehicles) between Modesto and Waterford and intermediate points. To provide the service two busses are used (one 1939 and one 1940 Dodge model), each having a capacity of 25 passengers. Assertedly, service has been provided continuously since the inception of the operation.

Under an agreement between the parties dated January 18, 1946, a copy of which accompanies the application, Caplan undertook to sell the operative right, good will and equipment for the total price of \$6,500, of which \$500 was paid contemporaneously with the execution of the contract, and the balance is payable

(1) This certificate was issued to Caplan pursuant to Decision No. 38165, rendered August 28, 1945, in Application No. 26865.

within ten days after the Commission has approved the transaction. Of the purchase price mentioned, \$5,000 is allocated to the equipment, and \$1,500 to the certificate and good will.

The purchaser, Curtis, it appears, is a retired employee of Pacific Greyhound lines, familiar generally with stage operations. His present worth, so he states, exceeds the sum of \$25,000, represented by real property, securities and cash.

The annual report filed by Caplan, January 10, 1946, indicates that since the certification of the service, on August 28, 1945, the revenues accruing from operation totaled \$2,910.20, and the expenses (therein itemized) aggregated \$4,753.60, resulting in a deficit of \$1,843.40.<sup>(2)</sup>

The application, accordingly, will be granted. This is not a matter requiring a public hearing.

If Earl Curtis acquires said properties, he should charge \$1,450 of the purchase price to account 28--Deferred Debits, and amortize said \$1,450 within three years after the date hereof by charges to account 92--Miscellaneous Charges to Income. The remainder of the purchase price should be recorded in the manner provided in the system of accounts prescribed by the Commission.

The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

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(2) Applicant Caplan reports that during January and February, 1946, the operating results were as follows:

	<u>January</u>	<u>February</u>
Operating Revenue	\$ 724.50	\$ 679.15
Operating Expense	<u>454.70</u>	<u>431.98</u>
Profit	\$ 269.80	247.17

Earl Curtis is hereby 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

Application having been made as above entitled; and the Commission having duly considered the matter;

IT IS ORDERED as follows:

(1) That R. H. Caplan, an individual, doing business as Stanislaus Stage Line, be and he is hereby authorized on or before May 31, 1946, to transfer to Earl Curtis, an individual, in accordance with the terms of the agreement between said parties, dated January 18, 1946, a copy of which accompanies the application, the operative right as a passenger stage corporation (as defined by Section 24, Public Utilities Act) acquired by R. H. Caplan, pursuant to Decision No. 38165, and the property described in the foregoing opinion; and Earl Curtis is hereby authorized to acquire from R. H. Caplan said operative right and property, and thereafter to operate under said operative right.

(2) That applicants, respectively, shall comply with the provisions of General Order No. 79 and General Order No. 93-A by filing in triplicate, and concurrently making effective,

appropriate tariffs and time schedules, within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public.

(3) That, if applicant R. H. Caplan, acquires said operative right and property, he shall record the amount paid therefor in the manner indicated in the foregoing opinion.

(4) That in the event such authority to transfer is exercised, applicant Earl Curtis shall notify the Commission thereof within ten (10) days after the actual date of such transfer.

(5) That within thirty (30) days after the transfer of said operative right and property, applicant Earl Curtis shall file with the Commission a copy of any bill of sale or other instrument of transfer, executed under the authority herein granted.

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

Dated at San Francisco, California, this 12<sup>th</sup> day of March, 1946.

Harold Anderson

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James Lawrence

Harold P. Kula

COMMISSIONERS