

Decision No. 38804

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
WILLIAM A. SALE and JESSE R. RUGGLES)
dba WINTERS DRAY LINE, to sell and)
transfer, and of WILLIAM F. CARETON)
S. and ALBERT E. TANDY dba TANDY BROS.)
TRUCK LINE to purchase and acquire the)
transportation business, operating)
authority, equipment and property)
herein described.)

Application No. 27257

O P I N I O N

The Commission by its Decision No. 37166, dated June 27, 1944, in Application No. 26146, authorized William A. Sale and Jesse R. Ruggles to lease to L. R. Carpenter a highway common carrier operative right for the transportation of fresh fruits and vegetables from Winters and the vicinity thereof, on the one hand, to Oakland and San Francisco, on the other hand, with a return movement of empty containers. (1) Such decision also authorized the leasing of the lessors' transportation business, five trucks, two trailers, one grain elevator, and other supplies and truck parts with an option to purchase such operative rights and physical property. According to the lease and option agreement, the lessee was to have taken over the foregoing described business and properties for a period of three years, beginning on the effective date of the order of the Commission authorizing the lease. The lease arrangement was at a rental of \$500 a month with the right of the lessee to purchase the property at the end of the three year period, upon an additional payment to the lessors of \$5,000 in cash.

(1) This operative right was created by the Commission's Decision No. 26516, dated November 13, 1933, and Decision No. 29849, dated June 14, 1937, in Application No. 18920.

In the above entitled application Sale and Ruggles assert that, pursuant to the authority of said Decision No. 37166, Carpenter took over the business and property above referred to on or about June 27, 1944, and conducted operations continuously from that date until the latter part of January 1946; when he breached the agreement between him and Sale and Ruggles. As a result of such breach, Sale and Ruggles immediately repossessed the property and reestablished service. They request the Commission to approve such resumption of service. This request will be granted.

The application here considered states that because of their age and physical condition neither applicant Sale nor applicant Ruggles is able to actively continue the business and they desire to sell the business, operative authority and operating equipment and properties to William F., Carlton S. and Albert E. Tandy, and that the parties have entered into an agreement for the sale and purchase thereof, a copy of such agreement being attached to the application as Exhibit "A". The physical property consists of five units of automotive equipment, one trailer and one semi-trailer, one grain elevator, five grape tanks, air compressor, dollies, furniture pads, tarpaulins and other supplies. The

(2) Applicants report the value of the physical property as follows:

<u>Make</u>	<u>Type</u>	<u>Year</u>	
Mack Jr.	Truck	1938	\$ 1,600.00
Ford V8	Truck	1941	1,400.00
Fageol	Truck and Dump	1930	3,500.00
G. M. C.	Truck	1945	7,000.00
Chevrolet	Pickup	1939	650.00
Trailer	Homemade	1946	2,700.00
Utility	Trailer	1932	1,500.00
Miscellaneous Equipment			2,850.00
			\$ 21,200.00

purchase price is \$20,000 payable to the sellers by the buyers upon receipt of authorization by the Commission. ⁽³⁾ No part of the purchase price is allocated to intangibles.

The application further states that William F., Carlton S. and Albert E. Tandy are partners, doing business as Tandy Brothers; are engaged in the business of a highway common carrier for the transportation of fresh fruits and vegetables from the territory between Rumsey and Esparto, Yolo County, on the one hand, and San Francisco and Oakland, on the other, with the right to return empty containers, as authorized by the Commission's Decision No. 35430; that said decision does not show that Albert E. Tandy is a partner; and one of the purposes of the application is for an order of the Commission authorizing the transfer of the operative authority contained in said Decision No. 35430 from the partnership composed of William F. and Carlton S. Tandy to the partnership

(3) Balance Sheet Statement of Tandy Bros. as of January 26, 1946.

<u>ASSETS</u>		
Cash in Bank of America, Woodland		\$61,108.16
Cash on hand		1,123.70
Notes Receivable		2,960.00
Accounts Receivable (\$750 past due)		15,373.00
Merchandise on hand (Actual)		12,500.00
Supplies on hand		1,450.00
Stocks and Bonds (Government)		29,150.00
Total Current Assets		\$123,664.86
Real Estate (Schedule A)		45,600.00
Machinery (Schedule B)		35,498.00
Automobiles and Trucks (Schedule C)		40,535.00
Other Assets (Schedule D)		15,800.00
Total Assets		\$261,097.86

Notes: Included as assets are the properties which are the subject of the sale herein proposed, it being a "Giving Effect Balance Sheet Statement".

<u>LIABILITIES</u>		
Accounts Payable Current	\$	3,005.63
Contract pending completion		20,000.00
Federal and State Income Taxes		2,867.00
Accrued Wages		177.50
Total Current Liabilities		\$ 26,050.13
Net Worth		235,047.73
Total Liabilities		\$261,097.86

composed of William F., Carlton S. and Albert E. Tandy.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the requests of applicants should be granted. The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

William F., Carlton S. and Albert E. Tandy are 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

An application therefor having been filed, and the Commission being fully informed therein,

IT IS ORDERED:

(1) That the resumption of service by William Sale and Jesse R. Ruggles, partners, pursuant to the certificate granted by Decision No. 26516 and Decision No. 29849 is hereby approved.

(2) That said Sale and Ruggles may, on or before April 30, 1946, sell and transfer to William F., Carlton S. and Albert E. Tandy, partners, who may purchase and acquire the operative

right created by Decisions Nos. 26516 and 29849, and the equipment described in the agreement attached to the application herein as Exhibit "A".

(3) That William F. and Carlton S. Tandy, partners, may, on or before April 30, 1946, sell and transfer to William F., Carlton S. and Albert E. Tandy, partners, who may purchase and acquire the highway common carrier operative right created by Decision No. 28935, in Application No. 20563.

(4) 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 60 days from the effective date hereof, and on, not less than 1 day's notice to the Commission and the public.

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

Dated at San Francisco, California, this 2nd day of April, 1946.

Harold Rudman
Justin F. Casner
Francis Dora
Sam H. Lawrence
Harold P. Huls
COMMISSIONERS