

Decision No. 39042

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Application of )  
GEORGE J. SAUL, dba SAUL'S LIVESTOCK )  
TRANSPORTATION, to sell, and CECIL R. )  
GARRETT and WAYNE J. THOMAS, dba )  
Garrett and Thomas Livestock Transpor- )  
tation Co., to purchase an automobile )  
fleet line operated for the transpor- )  
tation of livestock in California. )

Application No. 27513

O P I N I O N

George J. Saul, doing business as Saul's Livestock Transportation, is engaged in the operation of a highway common carrier service for the transportation of livestock over a number of routes extending from Los Angeles, in general, as far as San Mateo, Modesto, Coleville, Blythe, Calexico and San Ysidro, as more specifically defined in Decision No. 32673, on Application No. 22210.

By the above entitled application George J. Saul requests the authority of the Commission to sell and transfer to Cecil R. Garrett and Wayne J. Thomas, doing business as Garrett and Thomas Livestock Transportation Co., and the latter request authority to purchase from the former the above described operative right and five units of automotive equipment, pursuant to an agreement attached to the application and marked Exhibit "A". The agreed price is \$35,800.24, of which \$32,800.24 is stated to represent the value of the equipment, and \$3000 the value of the operative right and good will. According to the agreement a cash payment of \$5000 has been deposited with the seller by the buyer to be retained by the seller upon approval by this Commission of the proposed transfer. The remainder of the purchase price is to be paid within one year in twelve equal monthly installments with interest at the rate of 5 percent per annum.

According to a statement attached to the application, the operating revenues and expenses of applicant Saul for the period January 1, 1941, to March 31, 1946, are as follows:

<u>YEAR</u>	<u>REVENUE</u>	<u>EXPENSES</u>	<u>NET OPERATING REVENUE</u>
1941	\$ 157,898.76	\$ 138,804.37	\$19,094.39
1942	213,140.23	189,689.07	23,451.16
1943	240,857.27	212,861.76	27,995.51
1944	225,306.65	242,969.88	(17,663.23)
1945	235,548.89	245,145.63	(9,596.74)
1946 (3 mos)	57,732.51	53,916.96	3,815.55
	<u>\$1,130,484.31</u>	<u>\$1,083,387.67</u>	<u>\$47,096.64</u>

( ) - Red Figure

The application states that the buyers have been engaged in the business of owning and operating motor trucks for the transportation of livestock over the highways in the State of California for a number of years. According to their financial statement attached to the application, they have a net worth of approximately \$50,000.

On the basis of the revenues as above submitted, the purchasers, upon the approval of the transfer, should keep their accounts in the manner prescribed for Class I motor carriers of property. Of the total purchase price the sum of \$32,800.24 should be charged to the appropriate tangible property accounts and \$50, representing filing fees paid to this Commission upon this application for transfer of operative rights, to account 1511, Franchises. The remainder of the purchase price, amounting to \$2,950, should be charged to account 1550, Other Intangible Property and thereafter amortized by charges to account 7500, Other Deductions, before December 31, 1948.

This does not appear to be a matter requiring a public hearing and the application should be granted.

Cecil R. Garrett and Wayne J. Thomas 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

IT IS ORDERED as follows:

(1) That George J. Saul may sell and transfer to Cecil R. Garrett and Wayne J. Thomas on or before August 31, 1946, the highway common carrier operative right referred to in the foregoing opinion, and the equipment described in the agreement marked Exhibit "A" and attached to the application, and Cecil R. Garrett and Wayne J. Thomas may purchase and acquire such property and operative right and thereafter operate thereunder.

(2) That the price paid by Cecil R. Garrett and Wayne J. Thomas for such property and operative right shall be recorded by them in the manner indicated in the foregoing opinion.

(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 60 days from the effective date

hereof and on not less than five days' notice to the Commission and the public.

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

Dated at San Francisco, California, this 5<sup>th</sup> day of June, 1946.

Harold Anderson  
Justin F. Carlson  
Stanley B. Brown  
Robert L. Brown  
Harold P. Kula  
COMMISSIONERS