

Decision No. 41045

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
W. RAY JAMES, doing business as)	
JAMES VAN LINES, to purchase and)	
C. C. LOCKETT, doing business as)	Application No. 28529
ELECTRIC TRANSFER AND STORAGE)	
COMPANY, to sell highway common carrier)	
operative rights.)	

GORDON & KNAPP by WYLAN C. KNAPP, for applicants.
FRANK LOUGHRAN, for Coast Van Lines, protestant.

O P I N I O N

The Commission is requested to authorize C. C. Lockett, doing business as Electric Transfer and Storage Company to sell and transfer, and to authorize W. Ray James, doing business as James Van Lines to purchase a prior highway common carrier operative right for the transportation of household goods and related articles between San Francisco Bay area points, Sacramento, Stockton, Vallejo and Rio Vista, among other points. A public hearing was had before Commissioner Mittelstaedt and Examiner Paul at San Francisco September 4 and 15, 1947 and the matter was submitted subject to the filing of briefs which have been received.

(1) The right proposed to be transferred is a prior right as defined by the Commission's Decision No. 25261 dated October 17, 1932, in Case No. 3226 and Decision No. 36993 dated April 30, 1934 in Case No. 3478. The latter decision approved and ordered filed Tariff C.R.C. No. 1 of Electric Transfer and Storage Company subject to exceptions in regard to service to and from certain points named in the tariff which were ordered cancelled. The tariff as approved showed rates between San Francisco and Sacramento and intermediate points via Niles, Dublin, Stockton, Walnut Creek, Brentwood, Crockett, Benicia, Rio Vista, Vallejo, Cordelia, Fairfield and other points.

According to an agreement attached to the application as Exhibit "A" the consideration to be paid by James to Lockett for the operative right is \$2,000 in cash upon receipt of the Commission's authority to execute the transfer. No physical property is involved in the transaction.

Evidence of record shows that applicant James is presently operating as a highway common carrier engaged in the transportation of new and second hand household goods, office furniture and personal effects between San Francisco, San Jose, Los Angeles and intermediate points. He also serves points in the Monterey Bay area. The experience and financial ability of this applicant render him well qualified in our opinion to conduct the operation between San Francisco and Sacramento and intermediate points which he proposes to acquire from Lockett and consolidate with his own present operations.

The position of Coast Van Lines, hereinafter referred to as protestant, is (1) that title to the Lockett right was vested in the trustee in bankruptcy by operation of law when Lockett was adjudicated a bankrupt in 1941 and that said title was never re-conveyed to Lockett so that he presently has no title to the right which he seeks to transfer, and (2) that Lockett abandoned his operative right prior to 1941, which he herein proposes to transfer, and therefore the transfer should not be authorized.

Lockett testified that he established the household goods transportation business in the latter part of 1912 or the early part of 1913 which he has continued to date and that the business has been conducted under the firm name of Electric Transfer and

Storage Company and also under the firm name of Lockett Van and Storage Company. Lockett further stated that at different times he had associated with him as partners two of his brothers, C. H. Lockett and H. M. Lockett. H. M. Lockett worked as a driver and C. H. Lockett as a dispatcher. During the six years last past applicant Lockett has operated the business, so he testified, as an individual. During all this time, he stated, he was in active management of the business. Documentary evidence in the form of shipping bills was introduced relating to shipments transported during the period from January 1945 to August 1947. These shipping bills are on forms of Lockett Van and Storage Company or Electric Transfer and Storage Company. While not uniformly so these shipping bills in general showed charges for the transportation of household goods between many of the points contained in the operative right involved.

Lockett stated that he continued operations until the time he was adjudicated a bankrupt. During the period of bankruptcy he "operated the business for the trustee of the old company" with a truck obtained from Henry Lockett his brother. At the time of his adjudication as a bankrupt Lockett "formed a new company" with his brother Henry Lockett who operated the business for a short time. Lockett further testified that he acquired the assets of the bankrupt estate from the trustee and continued the operation to date.

According to Lockett some of the line haul was performed by him while other shipments were transported by other carriers, generally between Sacramento and the more distant points on Lockett's line, under a sub-hauling arrangement pursuant to which the sub-hauler paid to Lockett a fixed proportion of the transportation charges.

We find from a careful review of the record that the evidence does not show that the operative right involved has been abandoned.

Protestant contends that title of Lockett to the operative right was vested in the trustee in bankruptcy by operation of law when Lockett was adjudicated a bankrupt in 1941 and said title has never been reconveyed to him. However that may be, a proceeding in bankruptcy could not divest Lockett of said title except with the approval of this Commission, which was never requested nor given. In any event Lockett reacquired all the assets of the bankrupt estate (Exhibit No. 13) and thereby became the owner of any equitable title or right the trustee in bankruptcy might possibly have acquired.

The evidence herein shows the competency of the proposed purchaser to operate under the right sought to be transferred and it appearing to be in the public interest permission to effect the transfer will be given.

O R D E R

An application therefor having been filed, a public hearing having been had thereon and, based upon the evidence received and upon the conclusions and findings set forth in the opinion hereof,

IT IS ORDERED as follows:

(1) That C. C. Lockett, after the effective date hereof and on or before February 29, 1948, may sell and transfer to W. Ray James the operative right referred to in the opinion hereof, and W. Ray James may purchase and acquire said operative right and thereafter conduct operations thereunder.

(2) That within 20 days from the date of the transfer herein authorized applicant James shall file with the Commission a true copy of the bill of sale of said operative right.

(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 one day's notice to the Commission and the public.

(4) That the action taken herein shall not be construed to be a finding of the value of the property herein authorized to be transferred.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California, this 17th day of December, 1947.

Harold P. Hule
Justus F. Colver
John H. Powell
A. J. Anderson
COMMISSIONERS.