

ORIGINAL

Decision No. 42092

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
PAUL H. STEILING to sell and THOMAS)	
J. MALATESTA to purchase an automotive)	Application No. 29679
passenger and express line between)	
Almaden and San Jose, California.)	

O P I N I O N

By this application Paul H. Steiling, doing business as Almaden Stage Line, requests permission to sell and Thomas J. Malatesta to purchase the certificate of public convenience and necessity and automotive equipment with which seller has been conducting a passenger stage and express service between Almaden and San Jose.⁽¹⁾ The purchase agreement, a copy of which is attached to the application, recites a consideration of \$1600 cash, of which \$400 is stated to be the value of the operative right and \$1200 the value of the equipment.

The buyer formerly operated a passenger stage business in the state of New Jersey. He has submitted a financial statement, as of August 31, 1948, showing assets (including approximately \$8,700 in cash and bonds) of \$17,066.81 and liabilities of \$250.91. He proposes to operate the existing schedule of four round trips daily except Sunday at present fares and will add additional equipment and schedules as required.

Upon full consideration we find the proposed transfer to be consistent with the public interest and the application

(1) The certificate was granted by Decision No. 40558, issued July 22, 1947, in Application No. 28284. The equipment consists of one 25-passenger 1939 Chevrolet bus the original cost of which, depreciated, is alleged to be \$1152.35.

accordingly will be granted. The action taken herein, however, shall not be construed to be a finding of the value of the properties herein authorized to be transferred. A public hearing is not necessary.

Thomas J. Malatesta 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 therefor having been filed and considered, the Commission now being fully advised and finding the proposed transfer to be consistent with the public interest,

IT IS ORDERED:

(1) That Paul H. Steiling be and he is hereby authorized to sell and transfer to Thomas J. Malatesta the certificate of public convenience and necessity heretofore granted by Decision No. 40558 in Application No. 28284, together with the automotive equipment heretofore mentioned, and said Thomas J. Malatesta be and he is hereby authorized to purchase and acquire said certificate and equipment and thereafter to conduct the operation authorized by said certificate.

(2) That in the event this authority to transfer is exercised Thomas J. Malatesta shall notify the Commission thereof within ten days after the actual date of such transfer.

(3) That applicants shall comply with the provisions of General Orders Nos. 79 and 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 days from the date hereof and on not less than five days' notice to the Commission and the public.

(4) That the authorization herein granted shall lapse and become void if not exercised within six months from the effective date hereof, unless further time is granted by subsequent order.

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

Dated at San Francisco, California, this 5th day of October, 1948.

R. T. Dunderman
Wm. H. Powell
Harold Kula
Samuel P. Potter

COMMISSIONERS