

Decision No. 44707

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of CANTLAY & TANZOLA, INC., a California Corporation, to execute and issue Conditional Sales Contracts, Chattel Mortgage and Notes.

Application No. 31672

PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA

4155-20

SEP 1 1950

R. 14277

By *J. Fleming*

O P I N I O N

In this application, Cantlay & Tanzola, Inc. requests the Commission to make its order approving six conditional sale contracts and one automobile note and chattel mortgage heretofore executed by it for the purpose of acquiring equipment.

Cantlay & Tanzola, Inc. is a corporation organized under the laws of the State of California on or about June 1, 1931. For a number of years it engaged in the business of transporting liquid petroleum products in bulk in tank trucks and tank trailers as a highway contract carrier and radial carrier but more recently, by Decision No. 42623 dated March 15, 1949, it was authorized to operate as a highway common carrier. Its annual report to this Commission for the year ended December 31, 1949, shows operating revenues of \$2,190,290, and net income of \$112,902. Exhibit B filed in this proceeding, covering the five months ended May 31, 1950, shows operating revenues of \$994,885 and net income of \$107,663.

In summary form, Exhibit A attached to the application shows applicant's assets and liabilities as of May 31, 1950 as follows:

<u>Assets</u>	
Current assets	\$ 363,037.06
Tangible property (net of depreciation reserve)	524,754.21
Intangible property (net of amortization reserve)	568.55
Investment securities	807,906.66
Prepayments	<u>93,175.02</u>
Total Assets	<u>\$1,789,441.50</u>

<u>Liabilities</u>	
Current liabilities	\$ 428,084.33
Equipment and other long term obligations	172,107.32
Insurance reserves	10,848.91
Capital stock	200,000.00
Unearned surplus	30,683.03
Earned surplus	<u>947,717.91</u>
Total Liabilities	<u>\$1,789,441.50</u>

During the years 1948 and 1949 and the first seven months of 1950, in acquiring equipment reported necessary in its operations, applicant executed six conditional sale contracts and one automobile note and chattel mortgage providing for deferred payments over periods of more than twelve months, with interest at the rate of 4% per annum. The conditional sale contracts originally were executed with the equipment suppliers and subsequently were assigned by said suppliers to the Security-First National Bank of Los Angeles. The automobile note and chattel mortgage was drawn in favor of its present holder, the Security-First National Bank of Los Angeles, at the time it was executed. The conditional sale contracts and the automobile note and chattel mortgage which were executed in 1948 and 1949 were modified by agreement with the bank in August, 1949, so as to extend the period of payment.

The conditional sale contracts and the automobile note and chattel mortgage outstanding on August 1, 1950, consist of the following:

<u>Date of Instrument (1)</u>	<u>Original Amount</u>	<u>Unpaid Balance August 1, 1950</u>	<u>Monthly Payments</u>
August 15, 1949	\$ 9,799.59	\$ 3,810.86	\$ 544.43
August 5, 1949	8,153.48	3,176.86	452.42
August 25, 1949	38,800.00	15,088.84	2,155.56
August 8, 1949	9,980.00	3,881.05	554.45
January 26, 1950	48,891.72	38,705.92	2,037.16
January 26, 1950	79,722.00	63,113.25	3,321.75
June 5, 1950	<u>21,400.00</u>	<u>21,400.00</u>	<u>892.00</u>
Total	<u>\$216,746.79</u>	<u>\$149,176.78</u>	<u>\$9,957.77</u>

Applicant now asks the Commission to approve the execution of these contracts and the automobile note and chattel mortgage.

Two of the above listed contracts originally were executed prior to the date applicant received a certificate of public convenience and necessity authorizing it to operate as a highway common carrier. However, these contracts were modified subsequent to that date, by written agreements between the carrier and the bank, so as to extend the period of payment.

It clearly appears that applicant should have sought and received the Commission's authorization prior to the execution of the modification agreements in 1949 and the conditional sale contracts in 1950, but that its failure to do so was through inadvertence and with no intent to evade the provisions of the Public Utilities Act.

The Act provides, among other things, that an evidence of indebtedness of a public utility, payable at a period of more than twelve months after date of issue, if executed without an

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(1)

Includes dates of the modification agreements and the amount outstanding at that time.

order of this Commission authorizing the same then in effect, shall be void. The Commission cannot, by a later order, approve the execution of evidences of indebtedness declared void by the act, and accordingly it will be necessary for applicant to execute new instruments in lieu of those payable more than twelve months after their date heretofore executed or modified by it, without authorization from the Commission, following the date of its certificate of public convenience and necessity to operate as a highway common carrier.

O R D E R

The Commission having considered the above entitled matter and being of the opinion that a public hearing thereon is not necessary, that the money, property or labor to be procured or paid for by the execution of the evidences of indebtedness herein authorized is reasonably required by Cantlay & Tanzola, Inc. for the purposes specified herein and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

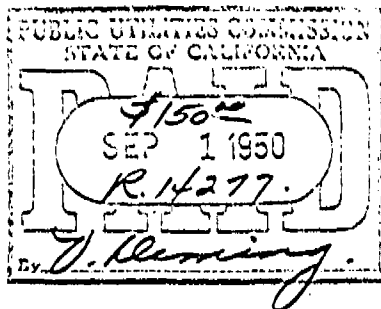
IT IS HEREBY ORDERED as follows:

1. Cantlay & Tanzola, Inc. after the effective date hereof and on or before November 30, 1950, for the purposes set forth in this application, may execute conditional sale contracts and an automobile note and chattel mortgage providing for deferred payments aggregating not in excess of \$149,176.78, in, or substantially in, the same form as those filed in this proceeding.

2. Cantlay & Tenzola, Inc., shall file with the Commission a copy of each conditional sale contract and each automobile note and chattel mortgage executed under the authority herein granted within thirty days after the dates thereof.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 29<sup>th</sup> day of August, 1950.



B. Z. [Signature]  
Justice F. Coe  
Harold Hill  
[Signature]  
Commissioners