

ORIGINAL

Decision No. 48763

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ROSE J. ANTONINI, d/b/a ANTONINI)
FRUIT EXPRESS, to sell an interest)
therein to LOUIS E. ANTONINI and)
VIRGIL J. ANTONINI, as copartners.)
-----)

Application
No. 34451

O P I N I O N

This is an application for an order of the Commission authorizing Rose J. Antonini to sell partnership interests in the Antonini Fruit Express to Louis E. Antonini and Virgil J. Antonini.

The application shows that Virgilio Antonini for many years conducted a highway common carrier business for the transportation of fresh fruits and vegetables from the City of Stockton area to San Francisco, operating under a certificate of public convenience and necessity granted by Decision No. 25944, dated May 15, 1933, in Application No. 18720, as amended and supplemented from time to time, that Virgilio Antonini died on May 10, 1951, and that Rose J. Antonini thereafter, pursuant to an order of the Superior Court, became the owner of the business upon distribution of the estate. It appears that she now desires to sell a one-half interest to her two sons, Louis E. Antonini and Virgil J. Antonini, who have been engaged in the operation of the business.

Under the agreement of purchase and sale, Louis E. Antonini will acquire a 30% interest for the sum of \$11,332.44, and Virgil J. Antonini will acquire a 20% interest for the sum of \$7,554.96. The purchase prices will be represented by notes payable over periods of not exceeding four years after date of issue, with no interest.

In considering this matter we are of the opinion that the proposed transfer will not be adverse to the public interest and that

applicants' requests should be granted. Applicants 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 as to the number of rights which may be given.

The action taken herein shall not be construed to be a finding of the value of the interests herein authorized to be transferred.

O R D E R

The Commission having considered the above entitled matter, and being of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for by the issue of the notes herein authorized is reasonably required by Louis E. Antonini and Virgil J. Antonini for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Rose J. Antonini may sell to Louis E. Antonini and Virgil J. Antonini the partnership interests in the Antonini Fruit Express in accordance with the terms set forth in this application, and Rose J. Antonini, Louis E. Antonini and Virgil J. Antonini may continue to do business as copartners under the firm name of Antonini

Fruit Express.

2. Louis E. Antonini may issue his promissory notes in the principal amount of \$11,332.44 and Virgil J. Antonini his promissory notes in the principal amount of \$7,554.96, in payment for the partnership interests to be acquired by them.

3. Within 60 days after the effective date hereof and on not less than five days' notice to the Commission and to the public, Rose J. Antonini, Louis E. Antonini and Virgil J. Antonini shall file, in triplicate, and concurrently make effective, appropriate tariffs and time tables.

4. If the authority herein granted is exercised, applicants, within 30 days thereafter, shall notify the Commission in writing of the completion of the transfer.

5. The authority herein granted will become effective when applicants have paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.00.

Dated at San Francisco, California, this 30th day of June, 1953.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

