

**ORIGINAL**

Decision No. 55100

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 JOE ESPINOSA, an individual doing )  
 business under the name and style of )  
 ESPINOSA TRUCKING COMPANY, to lease )  
 and sell, and of J. L. GROOM and/or )  
 MARION GROOM, doing business under )  
 the firm name and style of GROOM )  
 TRUCKING CO., to lease and purchase )  
 an automotive line operated between )  
 all points in California. )

Application No. 33565  
 (Order Revoking Operative  
 Authority)

In the Matter of The Application of )  
 J. L. GROOM and MARION GROOM, )  
 individuals doing business under the )  
 firm name and style of GROOM TRUCK- )  
 ING CO., to sell, transfer, and )  
 assign operative rights granted by )  
 decision and order of this Commis- )  
 sion on the 28th day of July, 1952, )  
 to AL ANTONI, an individual, doing )  
 business under the firm name and )  
 style of ANTONI TRUCK LINES. )

Application No. 39138

Robert L. Levi for applicants.  
J. Richard Townsend and Bernard C. Kearns for  
 G. W. Tank Lines, as protestant.

O P I N I O N ✓

Decision No. 53551 dated August 7, 1956, in Application No. 33565 contained an Order Revoking Operative Authority which J. L. Groom and Marion Groom acquired from Joe Espinosa pursuant to the authority of Decision No. 47517 dated July 28, 1952, in Application No. 33565. The effective date of Decision No. 53551 was stayed by the timely filing on August 28, 1956, of Response To Order Revoking Operative Authority.

Applicants J. L. Groom and Marion Groom and Al Antoni in Application No. 39138 filed June 10, 1957, seek authority for the

transfer of the operative rights involved from J. L. and Marion Groom to applicant Antoni.

Public hearing was held in both matters in San Francisco on April 21, 1957, before Examiner Rowe. Evidence was adduced and the matters are now submitted and ready for decision.

It appears from the record in these proceedings and the Commission finds that applicants had no intention of abandoning operations but their failure to carry on the business was occasioned by financial difficulties combined with the physical disability of J. L. Groom. The proposed sale to Al Antoni who is found to be adequately financed and sufficiently experienced to carry on this operation successfully will prevent the loss to the public of this needed transportation service. The proposed purchase price is \$300. Applicant Antoni has common carrier rights, with terminals in San Francisco and Oakland. He presently holds a contract carrier permit for the transportation of petroleum and serves one contract customer with one piece of light equipment.

If authorized to acquire the petroleum irregular route carrier authority of applicants Groom, applicant Antoni will dispose of his contract carrier permit and acquire larger and better petroleum carrying equipment. Protestant G. W. Tank Lines offered no witnesses of its own, but its counsel cross-examined applicant's witnesses. There is no conflict in the testimony offered by applicants.

After full consideration the Commission is of the opinion and finds that the operative rights of J. L. Groom and Marion Groom should not be cancelled or revoked and that said rights should be permitted to be transferred to applicant Antoni. It is further found that the proposed transfer will not be adverse to the public interest.

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

Alfred F. Antoni is hereby placed on 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.

O R D E R

Application and request therefor having been filed, public hearing having been held, and based upon the findings and conclusions in the foregoing opinion,

IT IS ORDERED:

(1) That the effective date of Decision No. 53551 is permanently stayed and the orders of revocation and cancellation therein contained are vacated.

(2) That unless the following ordering paragraphs numbered (3) and (5) are complied with within sixty days after the effective date hereof or within the time such compliance is duly extended by the Commission, the above ordering paragraph numbered (1) shall be null and void.

(3) That Al Antoni is hereby authorized to acquire and J. L. Groom and Marion Groom are authorized to transfer the certificate of public convenience and necessity to operate as a petroleum irregular route carrier transferred to J. L. Groom and Marion Groom by Decision No. 47517 dated July 28, 1952, in Application No. 33565.

(4) That within thirty days after the completion of the transfer herein authorized Al Antoni shall notify the Commission in writing thereof, and within said period shall file with it true copies of the instruments executed to effect such transfer.

(5) That applicants shall, effective concurrently with the consummation of such transfer, supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that J. L. Groom and Marion Groom have withdrawn or canceled and Al Antoni has adopted or established, as his own, said rates, rules and regulations.

The effective date of this decision shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup> day of August, 1957.

*John E. Mitchell*  
President  
*Walter D. ...*  
*R. Hardy*  
*E. ...*

Commissioners

Commissioner Ray E. Untereiner being necessarily absent, did not participate in the disposition of this proceeding.