

ORIGINAL

Decision No. 58799

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
JOHN SHUBIN, JR., an individual,
doing business as LIVE STOCK
TRANSPORT CO., to transfer, and
LIVE STOCK TRANSPORT CO., a
corporation, to acquire operating
rights and properties of a highway
common carrier, and to issue stock.

Application No. 41190

O P I N I O N

This is an application for an order of the Commission
(1) authorizing John Shubin, Jr., to transfer operative rights
and equipment to Live Stock Transport Co., a corporation, and
(2) authorizing Live Stock Transport Co., a corporation, to
issue 7,609 shares of its common stock of the aggregate par
value of \$76,090.

John Shubin, Jr., is engaged in business as a highway
common carrier of livestock under a certificate of public con-
venience and necessity granted to him by Decision No. 52422,
dated December 28, 1955. According to his financial statement
filed in this proceeding as Exhibit B, his operating revenues
for the year 1958 amounted to \$425,272 and his net profit to
\$52,811, before making allowances for taxes on income, but
after deducting depreciation charges of \$53,972.

It appears that applicant Shubin now desires to conduct his business by means of a corporate form of organization and that he has made arrangements to transfer his operative rights and equipment to Live Stock Transport Co., a new corporation which he has formed for the express purpose of taking over such rights and equipment and of continuing the operations. The new corporation will acquire the properties at their book values, will assume the payment of outstanding indebtedness and will issue its common stock in an amount approximately equivalent to the recorded net worth. A summary statement showing the assets and liabilities to be thus transferred is as follows:

Tangible property, less reserves	\$140,543	
Less - long-term obligations	<u>96,860</u>	
Balance		\$43,683
Current -		
Current assets	55,821	
Prepayments	<u>10,573</u>	
Total	<u>66,394</u>	
Less - current liabilities	<u>33,982</u>	
Net current and prepaid assets		<u>32,412</u>
Total		<u>\$76,095</u>

It is noted that nothing is included in the assets for the operative rights.

On May 5, 1959, the Commission issued its order of investigation, being Case No. 6265, into the operations, rates and practices of John Shubin, Jr., but has not yet entered its decision in that proceeding.

As to the application now before us, it appears that the proposed transfer from John Shubin, Jr., to the new corporation will result in no change in the management or in the rates

or service and that the same equipment will be available to the corporation as is now utilized by the individual. Under the circumstances we are of the opinion, and so find, that the transfer will not be adverse to the public interest, provided, however, that the transferee corporation agree that the operative rights to be transferred shall be subject to the decision to be issued in Case No. 6265, and that it will accept and assume whatever penalties may be imposed by said decision.

Applicants are 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. 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 operative rights and equipment 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 under the conditions set forth herein, that the money, property or labor to be procured or paid for by the issue of the stock herein

authorized is reasonably required by applicant corporation 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. John Shubin, Jr., on and after the effective date hereof and on or before December 31, 1959, may transfer to Live Stock Transport Co., a corporation, the operative rights acquired by him by virtue of Decision No. 52422, dated December 28, 1955, and the operative equipment as set forth in this application.

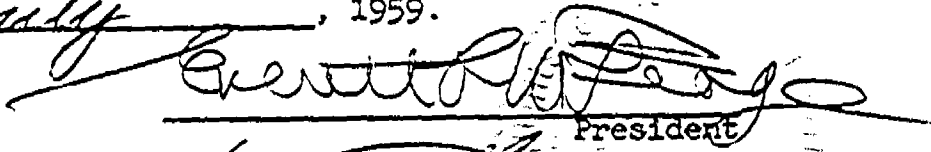
2. Live Stock Transport Co., a corporation, in acquiring said operative rights and equipment, may assume the payment of outstanding indebtedness as set forth in this application and may issue not to exceed 7,609 shares of common stock of the total par value of \$76,090.

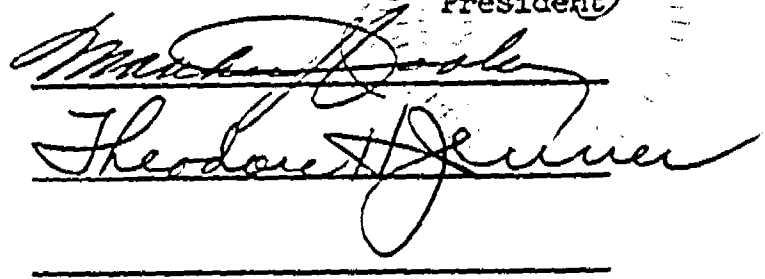
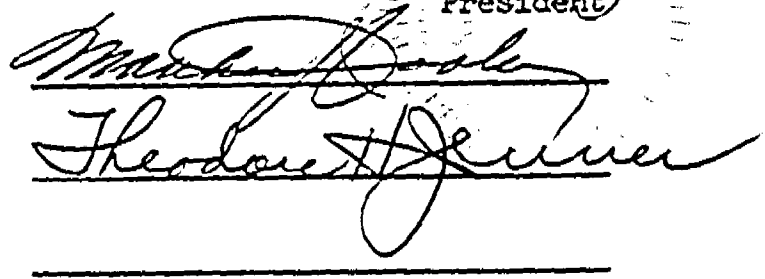
3. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the operations here involved to show that John Shubin, Jr., has withdrawn or canceled and Live Stock Transport Co., a corporation, has adopted or established, as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

4. Live Stock Transport Co., a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. The authority herein granted will become effective when Live Stock Transport Co., a corporation, has filed with the Commission a stipulation in which it agrees that the operative rights to be acquired by it under such authority shall be subject to the terms and conditions of the decision to be issued in Case No. 6265 and that it will accept and assume whatever penalties may be imposed by said decision.

Dated at San Francisco, California,
this 28th day of July, 1959.


President

Commissioners