

ORIGINALDecision No. 63990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 TONY S. CARUSO, an individual, doing)
 business as CARUSO PRODUCE EXPRESS,)
 to purchase certificate of public)
 convenience and necessity to operate)
 as a highway common carrier issued to)
 JOHN J. HESSELBROCK and JACK NICHOLS,)
 a copartnership, doing business as)
 COAST LINE TRUCK SERVICE.)

Application No. 44568

O P I N I O N

Tony S. Caruso requests authority to acquire certain highway common carrier operating rights.

The rights were acquired by John J. Hesselbrock and Jack Nichols by Decision No. 61398 and authorize the transportation of fresh fruits, fresh vegetables and berries, including mushrooms, between Los Angeles Basin Area points and San Francisco Bay area points and intermediate points.

On January 4, 1962, John J. Hesselbrock and Jack Nichols filed a voluntary Petition in Bankruptcy. On March 30, 1962, at a Trustee's sale, applicant Tony S. Caruso was the highest bidder for the certificate of public convenience and necessity with a bid of \$900. An order confirming sale from the District Court of the United States, Southern District of California, Central Division, is attached to the application as Exhibit A.

Applicant Caruso has been engaged in the transportation of fresh fruits and vegetables for the past 20 years. He owns and maintains terminal and office facilities in San Francisco. As of May 1, 1962, he indicated a net worth in the amount of \$230,050.

After consideration the Commission finds and concludes that the proposed transfer is not adverse to the public interest. A public hearing is not necessary.

Tony S. Caruso 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. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED that:

1. On or before December 1, 1962, Tony S. Caruso may acquire the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, Tony S. Caruso shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations here involved to show that John J. Hesselbrock and Jack Nichols have withdrawn or canceled, and Tony S. Caruso has adopted or established, as his own, said

rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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.

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

Dated at San Francisco, California, this 24th day of JULY 1, 1962.

George G. Grover
President
John P. Mitchell
Frederick E. Holoboff
Carroll B. Bagley
Commissioners

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