

ORIGINAL

Decision No. 65786

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
MELVIN D. SAVAGE, JR., for a license )  
as a Motor Transportation Broker. )

Application No. 45334

ORDER DENYING REHEARING

Following public hearing the Commission by Decision No. 65518 dated June 4, 1963, granted applicant a license as a Motor Transportation Broker. Petitioners, California Cartage Company, Merchants Express, Oregon-Nevada-California Fast Freight, Southern California Freight Lines, Pacific Intermountain Express, Pacific Motor Trucking Company, Shippers Express and Willig Freight Lines, request rehearing on the following grounds:

- (a) That applicant is not a "fit and proper person" within the meaning of Section 4835 of the Public Utilities Code because he is not financially responsible.
- (b) That applicant is not a "fit and proper person" within the meaning of Section 4835 because of his carrier affiliation.
- (c) That applicant failed to show any public need or interest to be served by issuance of the license.
- (d) That the decision violates Section 1705 of the Public Utilities Code in failing to contain, separately stated, findings of fact and conclusions of law on material issues.
- (e) That the Commission acted arbitrarily and abused its discretion in making the effective date of its order the date thereof.

Ground (a) is based on the fact that applicant, on March 29, 1963, filed a voluntary petition in bankruptcy as an individual doing business as Savage Transportation Co. Also involved are two corporations controlled by applicant, United States Express Company and United States Equipment Company. Liabilities approximate \$700,000 and assets \$35,000. Petitioners' reasoning is that, as a voluntary bankrupt, applicant may not qualify as "fit and proper" within the meaning of Section 4835, which reads as follows:

"The Commission, with or without hearing, may issue the license as prayed for, or may refuse to issue it, or may issue it for the partial exercise of the privilege sought. The commission shall not issue a license when, with or without hearing, it determines that (a) the applicant is not a fit and proper person to receive the license, or (b) the motor carriers for whom the applicant proposes to sell transportation have not complied, and are not complying and do not propose to comply, with state or federal laws, or all general orders of the commission, applicable to the operations of the motor carrier."

Bankruptcy in and of itself does not compel the conclusion that financial responsibility is lacking nor the conclusion that applicant is not a fit and proper person within the meaning of Section 4835.

Ground (b) refers to the fact that applicant proposes to arrange transportation for Golden Gate Delivery, Inc., a permitted carrier owned by applicant's father, Melvin D. Savage, Sr., and thereby implies that applicant intends to operate as both a carrier and a broker. In the absence of anything more substantial such implication finds no support in the record. Blood relationship, without more, does not support the implication suggested by petitioners.

With respect to ground (c) it is not necessary to establish public convenience and necessity before a license may be issued.

There is merit in ground (d) and Decision No. 65518 will be supplemented by appropriate findings to be hereinafter made.

Ground (e) relates to the effective date of the order which was made the date thereof. The petition for rehearing is being processed as though it were filed prior to the effective date of Decision No. 65518, in order that petitioners may comply with Section 1731 of the Public Utilities Code, which reads as follows:

" . . . No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless the corporation or person has made, before the effective date of the order or decision, application to the commission for a rehearing."

O R D E R

IT IS ORDERED that:

1. The opinion portion of Decision No. 65518 is hereby amended by adding thereto the following supplemental findings:

(a) Melvin D. Savage, Jr., is a fit and proper person within the meaning of Section 4835 of the Public Utilities Code.

(b) In the absence of any other evidence the mere fact that a blood relationship exists between applicant and the owner of Golden Gate Delivery, Inc., does not per se justify an implication of wrongdoing or that applicant intends to operate as a for hire carrier.

2. In all other respects the petition for rehearing is hereby denied.

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

Dated at San Francisco, California, this 30<sup>th</sup> day of JULY, 1963.

*William L. Brunell*  
President  
*John E. Bittell*  
*W. E. [unclear]*  
*George H. Hoover*  
*Fredrick B. Hallock*  
Commissioners