

ORIGINALDecision No. 66236

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of FRANK E. OSMER, for a license
as a motor transportation broker.

Application No. 45456

James Martin MacInnis, for applicant.Bernard A. Peeters, for the Commission
staff.O P I N I O N

Frank E. Osmer requests a license to engage in business as a motor transportation broker.

A public hearing was held before Examiner Daly on August 23, 1963, at San Francisco. The matter was submitted on receipt of late-filed Exhibits 6 and 7, since filed and considered.

Applicant proposes to conduct business at 609 Highway 1, Watsonville, California. He has on file a surety bond as required by Section 4838 of the Public Utilities Code. The only issue involved in the instant proceeding is whether applicant is a fit and proper person to receive a license within the meaning of Section 4235 of the Public Utilities Code. Section 4235 reads as follows:

"4235. 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."

Applicant was born in Pajaro, Monterey County, California, forty-two years ago. He presently resides in Watsonville with his wife and five children. Upon graduating from college in 1943, he enlisted in the Army and served overseas in both World War II and the Korean War. Between both campaigns he served a total of five years and advanced to the rank of Major in the Military Police Reserve. Applicant was awarded the Bronze Star and also the Cross of Peace and Freedom by the Netherlands Government.

In 1947 applicant was appointed Chief of Police of Watsonville and served in that capacity until 1961, when he was indicted by the Grand Jury of Santa Cruz County. On January 9, 1962, applicant pleaded guilty to the indictment, which charged that he violated Section 182, Subsection 1, of the California Penal Code, in that he did conspire with William Peter Cattaneo to violate Sections 23300 and 23301 of the Business and Professions Code (Alcoholic Beverage Control Act), by selling liquor without a license. Applicant was placed upon probation for a period of three years. The Court has authority, upon final disposition, to reduce applicant's conviction to a misdemeanor from its present status of a felony; such a determination would depend to a great extent upon how applicant conducts himself while on probation.

In mitigation applicant contends that his only connection with the offense was to dispose of several cases of liquor

to friends at bargain prices during the 1961 Christmas season, with no financial gain to himself. He argues that with the exception of this one incident he has never been involved in any trouble and that he has paid, many times over, for whatever wrong he may have committed.

Several character witnesses testified that they knew applicant and that his reputation for truth, honesty and integrity in the Watsonville area is good.

After consideration the Commission finds that:

1. Applicant was convicted of violating Section 182, Subsection 1, of the California Penal Code, in that he did conspire with William Cattaneo to violate Sections 23300 and 23301 of the Business and Professions Code (Alcoholic Beverage Control Act).
2. The determination of whether said crime will be reduced from a felony to a misdemeanor will be reached when the matter is finally disposed of and applicant's probationary period has been completed.
3. Applicant is a married man with five children. He has served his country with honor and distinction in both World War II and the Korean War. He served his community for many years as Chief of Police.
4. Except for his involvement with the sale of liquor without a license, applicant has lived an exemplary life.

5. Applicant has been punished for his crime. His otherwise good record entitles him to the opportunity to reestablish himself in his chosen new field.

6. Applicant is a fit and proper person to receive a motor transportation broker's license.

7. Applicant has filed a surety bond as required by Section 4838 of the Public Utilities Code.

The Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that a license is hereby granted to Frank E. Osmer, to act as a motor transportation broker as defined in Section 4803 of the Public Utilities Code, subject to the conditions hereinbelow set forth:

- (a) That the said licensee shall keep his license certificate as a motor transportation broker posted at his authorized place or places of business in order that it is readily available to public inspection at all times.
- (b) That the said licensee shall do business as a motor transportation broker at 609 Highway 1, Watsonville, California, for carriers named in the application, and for carriers for whom he may hereafter from time to time be permitted to do business by any subsequent Commission order, and all other names which may be included in this order by amendment effected by applicant's stating their names and addresses in one or more letters addressed to this Commission and duly deposited in the United States mail with appropriate stamps affixed thereto, such mailing to be completed prior to the performance of any transportation arranged by applicant.

The Secretary of the Public Utilities Commission shall issue and deliver to Frank E. Osmer a license certificate as a motor transportation broker in the form heretofore adopted by the Commission for such license certificate and subject to the

conditions hereinabove set forth, provided that the names of the motor carriers applicant is authorized to serve need not be set forth therein but in the space provided in said license certificate, for such names there shall be stated the following:

"Licensee is authorized only to negotiate for or hold himself out as one who furnishes or provides transportation in interstate or intrastate commerce over the public highways as a motor transportation broker on behalf of the motor carriers included in the order of the Public Utilities Commission granting this license or subsequently included by amendment."

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 30th day of OCTOBER, 1963.

Alexander Bennett
President

W. E. [unclear]

W. E. [unclear]

George L. Brewer

Frederick B. Holtschoff
Commissioners