

q/s
scam

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
DONALD POEPOE SR.,)
dba POI'S EXCAVATION)
Notice of Failure to Comply)
With Hawaii Revised Statutes)
and Commission's Regulations)
Order to Show Cause Why)
Respondent's Operating)
Authority Should Not Be)
Suspended or Revoked.)
_____)

DOCKET NO. 02-0248

ORDER NO. 19924

Filed Dec. 20, 2002
At 2:30 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

2002 DEC 23 P 3:58

RECEIVED

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----))
DONALD POEPOE SR.,))
dba POI'S EXCAVATION))
Notice of Failure to Comply))
With Hawaii Revised Statutes))
and Commission's Regulations))
Order to Show Cause Why))
Respondent's Operating))
Authority Should Not Be))
Suspended or Revoked.))
-----))

Docket No. 02-0248
Order No. 19924

ORDER

I.

By Decision and Order No. 19821, filed on November 27, 2002, the commission revoked certificate of public convenience and necessity (CPCN) number 4067-C held by DONALD POEPOE SR., dba POI'S EXCAVATION (Movant), for failure to file an annual financial report in an appropriate form, pursuant to Hawaii Revised Statutes (HRS) § 271-25.

On December 11, 2002, Movant filed a letter requesting that the commission reconsider the revocation of its CPCN. The commission will treat Movant's letter as a motion for reconsideration of Decision and Order No. 19821.

II.

The filing of Movant's Motion for Reconsideration is governed by HRS § 271-32(b) and Hawaii Administrative Rules (HAR) § 6-61-137. These sections require, among other things,

that a motion seeking any change in a commission's decision, order, or requirement be filed within 10 days after the decision or order is served upon the party.

Decision and Order No. 19821 was properly served on Movant, by mail, on November 27, 2002. As a result, the last permissible day for proper filing of Movant's Motion for Reconsideration was December 9, 2002.¹ Movant's Motion for Reconsideration was filed on December 11, 2002, two days late. Thus, we find Movant's Motion for Reconsideration to be untimely. Accordingly, since Movant failed to timely adhere to the filing requirements of HRS § 271-32(b) and HAR § 6-61-137, we conclude that Movant's Motion for Reconsideration should be dismissed as moot.


III.

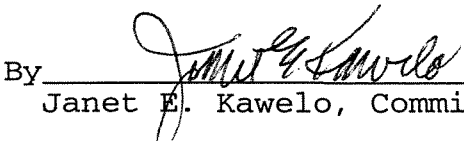
THE COMMISSION ORDERS that Movant's Motion for Reconsideration, filed on December 11, 2002, is dismissed as moot.

¹See HAR §§ 6-61-21 and 6-61-22.

DONE at Honolulu, Hawaii this 20th day of December,
2002.

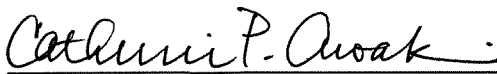
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Janet E. Kawelo, Commissioner

By (RECUSED)
Gregg J. Kinkley, Commissioner

APPROVED AS TO FORM:


Catherine P. Awakuni
Commission Counsel

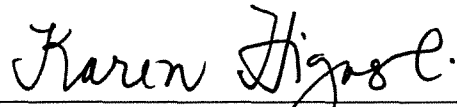
02-0248.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 19924 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

DONALD POEPOE SR., dba POI'S EXCAVATION
24 B Maha Road
Makawao, HI 96768



Karen Higashi

DATED: December 20, 2002