

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MAUI CHINA TOURS, INC.)
For Extension of Motor Carrier)
Certificate.)
_____)

DOCKET NO. 03-0173

ORDER NO. 20466

RECEIVED
2003 SEP 26 P 3:34
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed Sept. 25, 2003
At 2:00 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

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 the Application of))	
MAUI CHINA TOURS, INC.)	Docket No. 03-0173
)	
For Extension of Motor Carrier)	Order No. 20466
Certificate.)	
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ORDER

I.

By application filed on June 17, 2003, MAUI CHINA TOURS, INC., ("Applicant"), requests commission approval to extend its certificate of public convenience and necessity no. 4827-C to include the 8-to-25 passenger classification on the island of Hawaii, excluding Waipio Valley. Applicant is currently authorized to operate as a motor carrier of passengers in the 1-to-7 and 8-to-25 passenger classifications, on the island of Maui.

On August 27, 2003, a motion for enlargement of time to file a motion to intervene ("Motion for Enlargement of Time")¹ in

¹Jack's Tours' Motion for Enlargement of Time consisted of a motion to intervene and a letter to the commission explaining its tardiness and requesting that the commission accept the motion to intervene. We, thus, will treat Jack's Tours' letter as a motion to enlarge the time for filing its motion to intervene.

this proceeding was filed by Jack's Tours, Inc. ("Jack's Tours").² Jack's Tours states that its lack of knowledge regarding the intervention process caused it to miss the filing deadline.

II.

Pursuant to HAR § 6-61-23(a)(2), we may, in our discretion, grant a request for an enlargement of time upon a showing of excusable neglect. Jack's Tours asserts that because of its inexperience with the intervention process, it neglected to serve the commission with its motion to intervene.³ We find that Jack's Tours' reason for failing to serve the commission with a timely motion to intervene does not rise to the level of excusable neglect. Ignorance of the rules governing practice and procedure before the commission or mistakes construing such rules is not "excusable neglect". Enos v. Pacific Transfer & Warehouse Inc., 80 Hawaii 345, 351-354, 910 P.2d 116. 122-125 (1996). We, therefore, conclude that Jack's Tours has not met the standard of excusable neglect required for the granting of an enlargement of time, and, accordingly, we must deny its Motion for Enlargement of Time.

²Pursuant to Hawaii Administrative Rules ("HAR") § 6-61-57(2), the deadline for intervention is not later than 20 days after a notice of pending application has been published in a newspaper of general circulation within the State of Hawaii, or within the county or counties affected by the application. Notice of Applicant's pending application was published in the Hawaii Tribune Herald and West Hawaii Today newspapers on July 7, 2003. The last day for intervention was July 28, 2003, pursuant to HAR § 6-61-22.

³Jack's Tours represents that it timely served the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs and Applicant with the motion to intervene.

III.

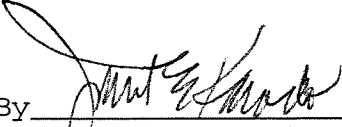
THE COMMISSION ORDERS that Jack's Tours' Motion for Enlargement of Time to file a motion to intervene, filed on August 27, 2003, is denied.

DONE at Honolulu, Hawaii this 25th day of September, 2003.

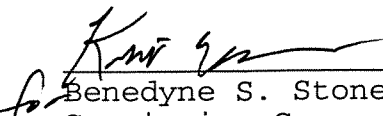
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By (EXCUSED)
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Benedyne S. Stone
Commission Counsel

03-0173.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20466 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

MAUI CHINA TOURS, INC.
c/o PETER HUNG
382 Kanaloa Avenue
Kahului, HI 96732

JACK'S TOURS, INC.
ATTENTION: ALISA MIYAKE
737 Kanoelehua Avenue
Hilo, HI 96720



Karen Higashi

DATED: September 25, 2003