

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of ----- )  
 )  
 CHIN KU KIM )  
 )  
 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. 03-0314

DECISION AND ORDER NO. 21152

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

2004 JUL 23 A 8:19

RECEIVED

Filed July 21, 2004  
At 11:00 o'clock A .M.

Karen Higashi.  
Chief Clerk of the Commission

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

K. Higashi.



## II.

### Discussion

We find that the recommended decision requires a modification to correct an error and to include all of the information relevant to this matter. Findings of Fact number 2, on page 2 of the recommended decision states that Respondent did not pay his Fee for 2002. The commission takes official notice of the records and files relating to this motor carrier and amends the recommended decision in the following manner by modifying Findings of Fact numbers 2 and 3 to read:

"2. On November 26, 2003, Respondent paid his Fee."

"3. Respondent was notified by letter dated November 26, 2003, that he owed the commission a total of \$531.79 in penalties and interest for the late filing of his AFR and payment of his Fee." (Footnote to remain unamended).

Upon a review of the entire record, we conclude that Respondent's CPCN should be revoked for his failure to: (1) pay the penalties and interest assessed for the untimely AFR filing and Fee payment; (2) timely file his AFR; and (3) timely pay his Fee, in violation of HRS § 271-25 and HAR §§ 6-62-24(a) and 6-62-42(a).

III.

Orders

THE COMMISSION ORDERS:

1. The recommended decision regarding this matter, attached hereto as Exhibit A, is adopted subject to the modifications described herein as the commission's final decision and order in this matter.

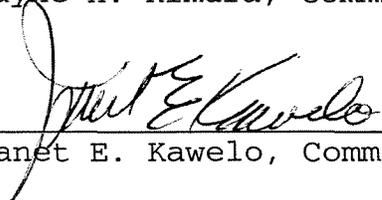
2. CPCN No. 1710-C is revoked.

DONE at Honolulu, Hawaii this 21st day of July, 2004.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Catherine P. Awakuni  
Commission Counsel

03-0314.sl

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)	)	DOCKET NO. 03-0314
CHIN KU KIM	)	
Notice of Failure to Comply	)	FINDINGS OF FACT
With Hawaii Revised Statutes	)	CONCLUSIONS OF LAW, AND
and Commission's Regulations	)	RECOMMENDED DECISION
Order to Show Cause Why	)	AND ORDER OF
Respondent's Operating	)	HEARINGS OFFICER
Authority Should Not Be	)	
Suspended or Revoked.	)	
_____)	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND RECOMMENDED DECISION AND ORDER OF HEARINGS OFFICER

I.

INTRODUCTION

By Order No. 20515, filed on October 27, 2003, CHIN KU KIM ("Respondent"), was ordered to appear before the commission on November 26, 2003, at 9:00 a.m. to show cause why Respondent's certificate of public convenience and necessity ("CPCN") number 1710-C should not be suspended or revoked for failing to file an annual financial report ("AFR"), pursuant to Hawaii Revised Statutes ("HRS") § 271-25 and Hawaii Administrative Rules ("HAR") § 6-62-42, and to pay the accompanying motor carrier gross revenue fee ("Fee"), pursuant to HRS § 271-36 and HAR § 6-62-24(a) ("Order to Show Cause Hearing").

An Order to Show Cause Hearing was held at 9:00 a.m. on November 26, 2003, at the Public Utilities Commission Hearing Room, 465 South King Street, Room B-3. Respondent represented

himself at the hearing. Hearings officer Benedyne S. Stone presided over the hearing.

Based upon a review of the record and the testimony presented at the hearing, the issue is whether Respondent's CPCN should be suspended or revoked for Respondent's failure to file an AFR and to pay the Fee, in violation of the State of Hawaii motor carrier laws, rules, and regulations.

Having considered the testimony and other evidence presented at the Order to Show Cause Hearing, and the entire record in this matter, this hearings officer hereby renders the following findings of fact, conclusions of law, and recommended decision and order.

## II.

### FINDINGS OF FACT

1. Respondent filed his AFR for 2002 on November 26, 2003.
2. Respondent did not pay his Fee for 2002, which was due by April 30, 2003.
3. Respondent was notified by letter dated November 26, 2003, that he owed the commission a total of \$531.79 in fees and late penalties for the late filing of his AFR and non-payment of his Fee.<sup>1</sup>

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<sup>1</sup>Pursuant to Hawaii Administrative Rules § 6-61-48, this hearings officer takes official notice of certain of Respondent's motor carrier records on file at the commission.

III.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the hearings officer makes the following conclusions of law. Any findings of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

1. HRS § 271-19 authorizes the commission, after notice and hearing, to suspend or revoke any CPCN, in part or in whole, if the holder is found to be in violation of any of the provisions of chapter 271, HRS.

2. Pursuant to HAR § 6-62-42(a), Respondent's 2002 AFR was due to the commission "by April 30 of [2003]".

3. Pursuant to HAR § 6-62-24(a), Respondent's Fee for 2002 was due to the commission "on or before April 30" of 2003.

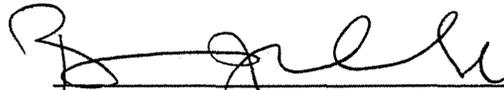
4. Based on the above-stated findings of fact, this hearings officer concludes that, because Respondent failed to file his AFR and to pay his Fee by April 30, 2003, Respondent was in violation of HRS § 271-25 and HAR §§ 6-62-42(a) and 6-62-24(a).

IV.

RECOMMENDED DECISION AND ORDER

Based on the foregoing, this hearings officer recommends that Respondent's CPCN should be revoked for his failure to pay his Fee, in violation of HAR § 6-62-24(a).

DATED: Honolulu, Hawaii this 24th day of February, 2004.



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Benedyne S. Stone  
Hearings Officer  
Public Utilities Commission

chinkyukim03-0314.ac

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Findings of Fact, Conclusions of Law, and Recommended Decision and Order of Hearings Officer 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 (VIA PICKUP)  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

CHIN KU KIM  
1738 Young Street, Suite 1  
Honolulu, Hawaii 96826

*Andrey Chigans*  
for Citations Clerk

DATED: February 24, 2004

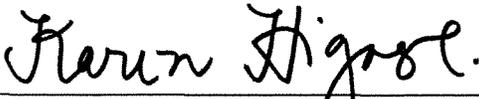
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21152 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

CHIN KU KIM  
1738 Young Street, Suite 1  
Honolulu, HI 96826

(CM #7003 1680 0002 5382 7846)

  
\_\_\_\_\_  
Karen Higashi

DATED: July 21, 2004