

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)  
)  
ROBERT GASTON SMETS, )  
dba WOLF TOURS and FIVE DIAMOND )  
LIMOUSINE SERVICE )  
)  
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. 03-0326

DECISION AND ORDER NO. 21161

Filed July 22, 2004  
At 11:00 o'clock A .M.

Karen Higashi.  
Chief Clerk of the Commission

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

2004 JUL 26 A 8:56

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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

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ROBERT GASTON SMETS, ) Docket No. 03-0326  
dba WOLF TOURS and FIVE DIAMOND )  
LIMOUSINE SERVICE ) Decision and Order No. 21161  
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Order to Show Cause Why )  
Respondent's Operating )  
Authority Should Not Be )  
Suspended or Revoked. )  
\_\_\_\_\_ )

DECISION AND ORDER

The commission ordered ROBERT GASTON SMETS, dba WOLF TOURS and FIVE DIAMOND LIMOUSINE SERVICE ("Respondent") to appear at 465 South King Street, Room B3, Honolulu, Hawaii 96813, at 9:00 a.m., on November 26, 2003 to show cause why Respondent's certificate of public convenience and necessity ("CPCN") number ("No.") 5661-C should not be suspended or revoked for failure to pay penalties and interest of \$250.00 that the commission assessed, pursuant to Hawaii Revised Statutes ("HRS") § 271-27(i) and Hawaii Administrative Rules ("HAR") §§ 6-62-24(b), 6-62-24(c), and 6-62-42(d), for Respondent's untimely annual financial report filing and annual

motor carrier gross revenue fee payment.<sup>1</sup> The commission notified Respondent that its CPCN would be revoked if it failed to appear at the scheduled hearing.

On November 26, 2003, Respondent failed to appear before the commission's hearings officer. As a result, the hearings officer recommended that the commission render the following findings and conclusions: (1) Respondent be found in default for failure to appear at the hearing and (2) Respondent's CPCN be revoked.

Based on the above, the commission finds that Respondent's failure to appear at the November 26, 2003 hearing constitutes a default in accordance with HAR § 6-68-23. Accordingly, because the commission can assume the facts alleged in Order No. 20527 are true in the event of a default, and such facts are in violation of applicable laws, rules, and regulations noted above, the commission concludes that Respondent's CPCN should be revoked.

THE COMMISSION ORDERS that CPCN No. 5661-C is revoked.

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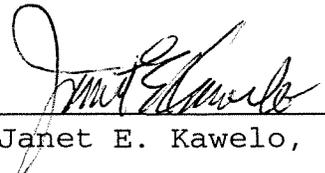
<sup>1</sup>The commission notified Respondent of the November 26, 2003 hearing by serving Order No. 20527 upon Respondent by certified mail, return receipt requested, at Respondent's last known address, or to Respondent's attorney. Pursuant to HAR § 6-61-21, service is deemed complete upon properly stamping, addressing, and mailing the order to Respondent's last known address, or to Respondent's attorney. Additionally, pursuant to HRS § 91-9.5, the commission provided Respondent with notice of the hearing via statewide publication in newspapers of general circulation on November 3 and November 10, 2003.

DONE at Honolulu, Hawaii this 22nd day of July, 2004.

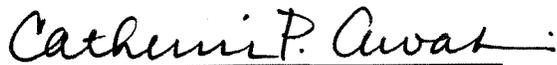
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Catherine P. Awakuni  
Commission Counsel

03-0326.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21161 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

ROBERT GASTON SMETS,  
dba WOLF TOURS and FIVE DIAMOND LIMOUSINE SERVICE  
P. O. Box 383138  
Waikoloa, HI 96738

(CM #7003 1680 0002 5382 7914)

  
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Karen Higashi

DATED: July 22, 2004