

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
CLARK ROBERT BALDING, dba)
BLUE DIAMOND TRANSPORTATION)
)
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. 2006-0244

DECISION AND ORDER NO. 23033

Filed November 21, 2006
At 9 o'clock A.M.

Brooke K. Kane
for Chief Clerk of the Commission

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

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ATTEST: A True Copy
BROOKE K. KANE
Administrative Director
Public Utilities Commission
State of Hawaii

Brooke K. Kane

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Docket No. 2006-0244
Decision and Order No. 23033

DECISION AND ORDER

By this Decision and Order, the commission revokes certificate of public convenience and necessity number 1831-C ("Certificate No. 1831-C") held by CLARK ROBERT BALDING, dba BLUE DIAMOND TRANSPORTATION ("Respondent").

I.

Procedural History

By Order No. 22679, filed on August 3, 2006, the commission ordered Respondent to appear at 465 South King Street, Room B3, Honolulu, Hawaii 96813, at 9:00 a.m., on September 27, 2006, to show cause why Respondent's Certificate No. 1831-C should not be suspended or revoked for failure to file an annual financial report and pay an annual motor carrier gross revenue fee for the year 2005, pursuant to Hawaii Revised Statutes ("HRS") §§ 271-25, 271-36, and Hawaii Administrative Rules

("HAR") §§ 6-62-42(a), 6-62-24(a).¹ In its order, the commission notified Respondent that Certificate No. 1831-C would be revoked if it failed to appear at the scheduled hearing.

On September 27, 2006, Respondent failed to appear before the commission's hearing officer. As a result, the hearing 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 Certificate No. 1831-C be revoked.

II.

Findings and Conclusions

Based on the entire record, the commission finds that Respondent's failure to appear at the September 27, 2006 hearing constitutes a default in accordance with HAR § 6-68-23. Accordingly, because the commission can assume the facts alleged in Order No. 22679 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 Certificate No. 1831-C should be revoked.

¹The commission notified Respondent of the September 27, 2006 hearing by serving Order No. 22679 upon Respondent by certified mail, return receipt requested, at Respondent's last known address. 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 hearing via statewide publication in newspapers of general circulation on September 5 and September 12, 2006.

III.

Orders

THE COMMISSION ORDERS:

Certificate No. 1831-C is revoked, and this docket is closed unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii NOV 21 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Stacey Kawasaki Djou
Stacey Kawasaki Djou
Commission Counsel

2006-0244.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23033 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

CLARK ROBERT BALDING
dba BLUE DIAMOND TRANSPORTATION
1294 Kaeleku Street
Honolulu, HI 96825



for Karen Higashi

DATED: NOV 21 2006