

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
 MIKI KANKO COMPANY, LIMITED)
)
 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. 2006-0219

ORDER NO. 23327

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

2007 MAR 30 A 9:45

RECEIVED

Filed March 29, 2007
At 2 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

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MIKI KANKO COMPANY, LIMITED)
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Docket No. 2006-0219

Order No. 23327

ORDER

By this Order, the commission grants MIKI KANKO COMPANY, LIMITED'S ("Movant") motion for reconsideration, and thus vacates Decision and Order No. 23002, filed on November 1, 2006.

I.

History

By Order No. 22686, filed on August 4, 2006, the commission ordered Movant 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 Movant's certificate of public convenience and necessity number 1205-C should not be suspended or revoked for failure to file an annual financial report ("AFR") and pay an annual motor carrier gross revenue fee ("Fee") for the years 2004 and 2005, pursuant to Hawaii Revised Statutes ("HRS") §§ 271-25, 271-36, and Hawaii Administrative Rules ("HAR") §§ 6-62-42(a),

6-62-24(a). As Movant failed to appear at the hearing, the commission revoked Certificate No. 1205-C by Decision and Order No. 23002, filed on November 1, 2006.

On February 16, 2007, Movant filed a motion for reconsideration of Decision and Order No. 23002, and on March 1, 2007, filed a motion for enlargement of time to file its motion for reconsideration, as the motion for reconsideration was untimely.¹ In addition, on March 1, 2007, Movant filed its 2004 and 2005 AFRs and paid its Fees, and on March 13, 2007, paid \$59.49 in penalties and interest that the commission assessed, pursuant to HRS § 271-27(i) and HAR §§ 6-62-24(b)(c) and 6-62-42(d).

II.

Discussion

HAR § 6-61-23(a)(2), which governs requests for enlargement of time, states in relevant part:

- (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

. . . .

- (2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect

¹HRS § 271-32(b) and HAR § 6-61-137 provide that a motion for reconsideration must be filed within ten (10) days of service of the decision and order. HAR § 6-61-21(e) allows for an additional two days when service is effected by mail. Thus, in this instance, Movant's motion for reconsideration should have been filed on or before November 13, 2006.

Thus, section 6-61-23(a)(2) allows Movant to file a motion for reconsideration only upon a showing of excusable neglect.

In its motion for enlargement of time, Movant states that it did not receive Order No. 22686 and Decision and Order No. 23002 because they were sent to the wrong address. By letter filed on October 5, 2004, Movant informed the commission of its new address, but the commission failed to update its records to reflect the change. As the commission erred in not amending its records to indicate the change of address, and as a result the Order and Decision and Order were sent to the wrong address, we find that Movant's explanation for requesting an enlargement of time amounts to excusable neglect. Accordingly, we conclude that Movant's motion for enlargement of time should be granted.

In regard to Movant's motion for reconsideration, the commission finds that Movant has fully complied, although belatedly, with the requirements set forth in Order No. 22686 and, thus, finds good cause to reconsider and set aside Decision and Order No. 23002.

III.

Orders

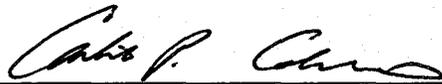
THE COMMISSION ORDERS:

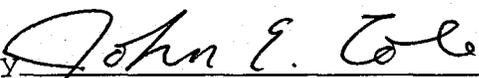
1. Movant's motion for enlargement of time to file its motion of reconsideration is granted.
2. Movant's motion for reconsideration is granted.
3. Decision and Order No. 23002, filed on November 1, 2006, is vacated.

4. This docket is closed unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii MAR 29 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:

sn 
Stacey Kawasaki Djou
Commission Counsel

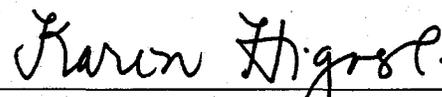
2006-0219.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23327 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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

MIKI KANKO COMPANY, LIMITED
1350 South King Street, #330
Honolulu, HI 96814



Karen Higashi

DATED: MAR 29 2007