

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
BIG ISLAND GOLF TOURS, INC.)
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. 2008-0214

ORDER DISMISSING THE MOTION FOR
RECONSIDERATION FILED ON APRIL 24, 2009

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

PUBLIC UTILITIES
COMMISSION

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FILED

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ORDER DISMISSING THE MOTION FOR
RECONSIDERATION FILED ON APRIL 24, 2009

By this Order, the commission dismisses as untimely the motion for reconsideration filed by BIG ISLAND GOLF TOURS, INC. ("Movant"), on April 24, 2009.

I.

Background

By Notice of Violation, Order to Show Cause, and Notice of Hearing, filed on October 14, 2008, the commission ordered Movant to appear at 465 South King Street, Room B-3, Honolulu, Hawaii 96813, at 9:00 a.m., on November 19, 2008, to show cause why Movant's certificate of public convenience and necessity number 5667-C ("Certificate No. 5667-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 2007, 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 Movant's Certificate No. 5667-C by Decision and Order filed on February 26, 2009.

On April 24, 2009, Movant filed a letter requesting that the commission rescind its revocation order and reinstate Movant's Certificate No. 5667-C. In its letter, Movant states, among other things: (1) that three years ago the management of Movant was turned over to "Richard" who claimed to have experience in managing and developing small businesses; (2) that Richard was fired three months ago and that Movant was not aware that Certificate No. 5667-C was in jeopardy; and (3) that Movant moved to a new complex, but did not inform the commission of its new address, and, thus, did not receive the Decision and Order filed on February 26, 2009 in a timely manner.

II.

Discussion

The filing of Movant's motion for reconsideration is governed by HRS § 271-32(b) and HAR § 6-61-137. These sections require, among other things, that a motion seeking any change in a commission's decision, order, or requirement, be filed within ten (10) days after a decision or order has been served upon a party. HAR § 6-61-21(e) allows an additional two days when service is effected by mail.

The Decision and Order filed on February 26, 2009 was properly served upon Movant by United States mail, postage prepaid, and addressed to the last known address of Movant on file with the commission, pursuant to HAR § 6-61-21(d)(3). The last permissible day for timely filing Movant's motion for reconsideration was March 10, 2009. Movant's motion for reconsideration was filed on April 24, 2009. Thus, we find Movant's motion for reconsideration to be untimely. Accordingly, since Movant failed to timely file its motion for reconsideration pursuant to HRS § 271-32(b) and HAR § 6-61-137, we conclude that Movant's motion for reconsideration should be dismissed.

III.

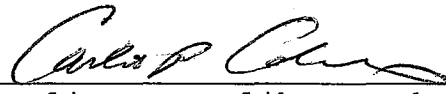
Order


THE COMMISSION ORDERS:


Movant's motion for reconsideration, filed on April 24, 2009, is dismissed as untimely.

DONE at Honolulu, Hawaii APR 30 2009.

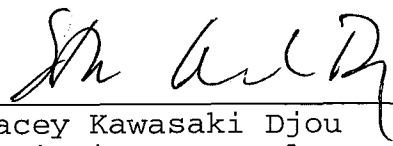
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel

2008-0214.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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

BIG ISLAND GOLF TOURS, INC.
c/o KELLY A. MARROTTE
74-5533 Luhia Street B-1A PMB 426
Kailua-Kona, HI 96740