

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)  
TAE SIK HA )  
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. 02-0297

DECISION AND ORDER NO. 20250

RECEIVED  
2003 JUN 20 P 4:17  
DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

Filed June 20, 2003  
At 8:00 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

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_____	)

Docket No. 02-0297  
Decision and Order No. 20250

DECISION AND ORDER

I.

On May 2, 2003, the duly appointed hearings officer issued Findings of Fact, Conclusions of Law, and Recommended Decision and Order of Hearings Officer (recommended decision) regarding the above-entitled matter. The recommended decision was served upon TAE SIK HA (Respondent) on May 2, 2003, via first class mail. Respondent did not file written exceptions to the recommended decision.

Upon a review of the entire record in this matter and pursuant to Hawaii Revised Statutes § 269-6, we conclude that the recommended decision, attached hereto as Exhibit A, should be adopted as the commission's final decision and order in this matter.

II.

THE COMMISSION ORDERS:

1. The recommended decision, attached hereto as Exhibit A, is adopted as the commission's final decision and order in this matter.

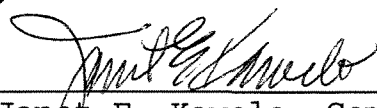
2. Respondent's proposed payment plan of \$3,000 per month for three months, beginning on May 31, 2003, and ending on July 31, 2003, is approved. Respondent shall make his payments to the commission in cash, cashier's check, or money order. Respondent's failure to complete payment of his civil penalties within 10 days after the last payment is due shall result in Respondent's certificate of public convenience and necessity being immediately revoked.

DONE at Honolulu, Hawaii the 20th day of June, 2003.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

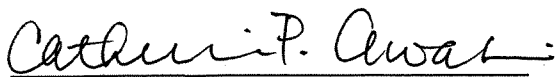
By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

Tae Sik Ha:la

APPROVED AS TO FORM:

  
Catherine P. Awakuni  
Commission Counsel

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DOCKET NO. 02-0297

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

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

I.

INTRODUCTION

By Order No. 19608, filed on September 30, 2002, TAE SIK HA, (Respondent), was ordered to appear before the commission on October 29, 2002, at 9:00 a.m. to show cause why Respondent's certificate of public convenience and necessity (CPCN) number 1071-C should not be suspended or revoked for failing to pay civil penalties totaling \$9,000 for nine outstanding civil citations, pursuant to Hawaii Revised Statutes (HRS) § 271-19 and Hawaii Administrative Rules (HAR) § 6-68-32(b).<sup>1</sup>

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<sup>1</sup>Respondent's citations were issued by commission Enforcement Officers for violations of the Hawaii motor carrier laws. The citations are as follows:

1. Citation No. 4427022, issued on March 19, 1997, with a penalty of \$1,000.
2. Citation No. 4427035, issued on April 25, 1997, with a penalty of \$1,000.

An order to show cause hearing (hearing) was held at 9:00 a.m. on October 29, 2002, at the Public Utilities Commission Hearing Room, 465 South King Street, Room B-3. Respondent represented himself at the hearing.<sup>2</sup> 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 pay his civil penalties to the commission, in violation of the State of Hawaii (State) motor carrier laws, rules, and regulations.

Having considered the testimony and other evidence presented at the 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.

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3. Citation No. 4427061, issued on July 24, 1997, with a penalty of \$500.
  4. Citation No. 4543448, issued on July 8, 1998, with a penalty of \$1,000.
  5. Citation No. 4627922, issued on May 24, 1999, with a penalty of \$1,000.
  6. Citation No. 4627926, issued on June 3, 1999, with a penalty of \$500.
  7. Citation No. 4627927, issued on July 7, 1999, with a penalty of \$1,000.
  8. Citation No. 0103, issued on November 8, 1999, with a penalty of \$1,000.
  9. Citation No. 0759, issued on July 30, 2001, with a penalty of \$2,000.

<sup>2</sup>Members of the commission's audit staff were sworn in and remained present during the hearing in the event they would be called upon to testify in the instant matter.

## II.

### FINDINGS OF FACT

1. On January 17, 2002, the commission sent Respondent a letter and bills for collection, requesting payment of Respondent's outstanding civil penalties.

2. As of the issuance of Order No. 19608, Respondent failed to pay the penalties imposed upon him by the commission and to date, his debt is still unpaid.

3. At the hearing, Respondent requested that he be allowed to enter into a payment plan in an effort to pay off his citation obligations.

4. Subsequent to the hearing, Respondent proposed a payment plan by which he would pay his penalties to the commission in three monthly installments of \$3,000.<sup>3</sup>

## III.

### CONCLUSIONS OF LAW

Based on the foregoing findings of fact, this 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.

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<sup>3</sup>Pursuant to HAR § 6-61-48, this hearings officer takes official notice of certain facts contained in the commission's motor carrier files.

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. In accordance with HAR § 6-68-32, the commission may amend, suspend, or revoke the licensed of a motor carrier for the wilful violation of any regulatory law.

#### IV.

##### RECOMMENDED DECISION AND ORDER

1. Based upon the above-stated findings of fact, this hearings officer recommends that the commission accept and approve Respondent's proposed payment plan, with Respondent's first payment due at the end of May, 2003, and the last payment to be made at the end of July, 2003.

2. This hearings officer also recommends that Respondent shall pay the civil penalty to the commission in cash, or by cashier's check or money order.

3. In the event that Respondent does not complete payment of his civil penalties within 10 days after the last payment is due, this hearings officer recommends that Respondent's CPCN be suspended or revoked.

DATED: Honolulu, Hawaii this 2nd day of May, 2003.



Benedyne S. Stone  
Hearings Officer  
Public Utilities Commission

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

TAE SIK HA  
2450 Koa Avenue #24  
Honolulu, HI 96815



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Leatrice G. Asahi  
Clerk

DATED: MAY 2, 2003



CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20250 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

TAE SIK HA  
2460 Koa Avenue  
Honolulu, HI 96815

BENEDYNE S. STONE  
HEARINGS OFFICER  
PUBLIC UTILITIES COMMISSION  
465 S. King Street, Room 103  
Honolulu, HI 96813

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

DATED: June 20, 2003