

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
 )  
 ELSWOOD KALEIPONI NOEAU, dba )  
 LEOLANI HAWAIIAN SCENIC TOURS )  
 & TRAVEL CO. )  
 )  
 For a Motor Carrier Certificate or )  
 Permit. )  
 \_\_\_\_\_ )

DOCKET NO. 03-0179

ORDER NO. 20467

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

2003 SEP 26 P 3:33

RECEIVED

Filed Sept. 25, 2003  
At 2:00 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

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)	)	
ELSWOOD KALEIPONI NOEAU, dba	)	
LEOLANI HAWAIIAN SCENIC TOURS	)	
& TRAVEL CO.	)	Docket No. 03-0179
	)	
For a Motor Carrier Certificate	)	Order No. 20467
or Permit.	)	
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ORDER

I.

By application filed on June 20, 2003, ELSWOOD KALEIPONI NOEAU, dba LEOLANI HAWAIIAN SCENIC TOURS & TRAVEL CO. ("Applicant"), requests a certificate of public convenience and necessity to operate as a common carrier of passengers by motor vehicle over irregular routes on the island of Hawaii, excluding Waipio Valley, in the 8-to-25 passenger classification, limited to utilizing motor vehicles with a maximum manufacturer's seating capacity of 15 passengers.

On August 27, 2003, a motion for enlargement of time to file a motion to intervene ("Motion for Enlargement of Time")<sup>1</sup> in

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<sup>1</sup>Jack's Tours' Motion for Enlargement of Time consisted of a motion to intervene and a letter to the commission explaining its tardiness and requesting that the commission accept the motion to intervene. We, thus, will treat Jack's Tours' letter as a motion to enlarge the time for filing its motion to intervene.

this proceeding was filed by Jack's Tours, Inc. ("Jack's Tours").<sup>2</sup> Jack's Tours states that its lack of knowledge regarding the intervention process caused it to miss the filing deadline.

## II.

Pursuant to HAR § 6-61-23(a)(2), we may, in our discretion, grant a request for an enlargement of time upon a showing of excusable neglect. Jack's Tours asserts that because of its inexperience with the intervention process, it neglected to serve the commission with its motion to intervene.<sup>3</sup> We find that Jack's Tours' reason for failing to serve the commission with a timely motion to intervene does not rise to the level of excusable neglect. Ignorance of the rules governing practice and procedure before the commission or mistakes construing such rules is not "excusable neglect". Enos v. Pacific Transfer & Warehouse Inc., 80 Hawaii 345, 351-354, 910 P.2d 116. 122-125 (1996). We, therefore, conclude that Jack's Tours has not met the standard of excusable neglect required for the granting of an enlargement of time, and, accordingly, we must deny its Motion for Enlargement of Time.

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<sup>2</sup>Pursuant to Hawaii Administrative Rules ("HAR") § 6-61-57(2), the deadline for intervention is not later than 20 days after a notice of pending application has been published in a newspaper of general circulation within the State of Hawaii, or within the county or counties affected by the application. Notice of Applicant's pending application was published in the Hawaii Tribune Herald and West Hawaii Today newspapers on July 7, 2003. The last day for intervention was July 28, 2003, pursuant to HAR § 6-61-22.

<sup>3</sup>Jack's Tours represents that it timely served the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs and Applicant with the motion to intervene.



CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20467 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

ELSWOOD KALEIPONI NOEAU, dba  
LEOLANI HAWAIIAN SCENIC TOURS & TRAVEL CO.  
33 Baker Avenue  
Hilo, HI 96720

JACK'S TOURS, INC.  
ATTENTION: ALISA MIYAKE  
737 Kanoelehua Avenue  
Hilo, HI 96720

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

DATED: September 25, 2003