

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of ----- )  
 )  
CHARLES L. NAONE )  
 )  
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. 03-0291

DECISION AND ORDER NO. 21136

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

2004 JUL 21 A 8:35

RECEIVED

Filed July 20, 2004  
At 8 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.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

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CHARLES L. NAONE ) Docket No. 03-0291  
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Notice of Failure to Comply ) Decision and Order No. 21136  
With Hawaii Revised Statutes )  
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Order to Show Cause Why )  
Respondent's Operating )  
Authority Should Not Be )  
Suspended or Revoked. )  
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DECISION AND ORDER

I.

Introduction

On February 24, 2004, the duly appointed hearings officer issued Findings of Fact, Conclusions of Law, and Recommended Decision and Order of Hearings Officer ("recommended decision") for this matter. The recommended decision was served upon CHARLES L. NAONE ("Respondent") on February 24, 2004 via first class mail, to which Respondent filed no written exceptions.

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

III.

Orders


THE COMMISSION ORDERS:


1. The recommended decision regarding this matter, attached hereto as Exhibit A, is adopted subject to the modifications described herein as the commission's final decision and order in this matter.

2. CPCN No. 0106-C is revoked.

DONE at Honolulu, Hawaii this 20th day of July, 2004.


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
\_\_\_\_\_  
Carlito P. Caliboso, Chairman

By   
\_\_\_\_\_  
Wayne H. Kimura, Commissioner

By   
\_\_\_\_\_  
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Catherine P. Awakuni  
Commission Counsel

03-0291.eh

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of ----- )  
CHARLES L. NAONE )  
Notice of Failure to Comply ) DOCKET NO. 03-0291  
With Hawaii Revised Statutes )  
and Commission's Regulations ) FINDINGS OF FACT  
Order to Show Cause Why ) CONCLUSIONS OF LAW, AND  
Respondent's Operating ) RECOMMENDED DECISION  
Authority Should Not Be ) AND ORDER OF  
Suspended or Revoked. ) HEARINGS OFFICER  
\_\_\_\_\_ )

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

I.

INTRODUCTION

By Order No. 20492, filed on October 27, 2003, CHARLES L. NAONE ("Respondent"), was ordered to appear before the commission on November 26, 2003, at 9:00 a.m. to show cause why Respondent's certificate of public convenience and necessity ("CPCN") number 0106-C should not be suspended or revoked for failing to file an annual financial report ("AFR"), pursuant to Hawaii Revised Statutes ("HRS") § 271-25 and Hawaii Administrative Rules ("HAR") § 6-62-42, and to pay the accompanying motor carrier gross revenue fee ("Fee"), pursuant to HRS § 271-36 and HAR § 6-62-24(a) ("Order to Show Cause Hearing").

EXHIBIT A

An Order to Show Cause Hearing was held at 9:00 a.m. on November 26, 2003, at the Public Utilities Commission Hearing Room, 465 South King Street, Room B-3. His daughter, Charlita Mahoe and his wife, Goldie Naone, represented Respondent at the hearing. 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 file an AFR and to pay the Fee, in violation of the State of Hawaii motor carrier laws, rules, and regulations.

Having considered the testimony and other evidence presented at the Order to Show Cause 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.

## II.

### FINDINGS OF FACT

1. Ms. Mahoe and Mrs. Naone testified that for some time now, after Respondent was burned badly in a fire, Respondent has intended to transfer his business to his son.
2. Respondent does not have any equipment or trucks, and does not operate as a motor carrier.
3. Respondent did not file his AFR for 2002.
4. On November 26, 2003, Respondent paid his Fee.

III.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the 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.

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. Pursuant to HAR § 6-62-42(a), Respondent's 2002 AFR was due to the commission "by April 30 of [2003]".

3. Pursuant to HAR § 6-62-24(a), Respondent's Fee for 2002 was due to the commission "on or before April 30" of 2003.

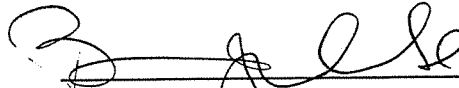
4. Based on the above-stated findings of fact, this hearings officer concludes that, because Respondent failed to file his AFR and to pay his Fee by April 30, 2003, Respondent was in violation of HRS § 271-25 and HAR §§ 6-62-42(a) and 6-62-24(a).

IV.

RECOMMENDED DECISION AND ORDER

Based on the foregoing, this hearings officer recommends that Respondent's CPCN should be revoked for his failure to file his AFR, in violation of HAR § 6-62-42(a).

DATED: Honolulu, Hawaii this 24th day of February,  
2004.



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Benedyne S. Stone  
Hearings Officer  
Public Utilities Commission

charlesnaonedocket 03-0219.ac

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

CHARLES L. NAONE  
89-050 Haleakala Avenue  
Waianae, Hawaii 96792

Andrey Chyzov  
for Citations Clerk

DATED: February 24, 2004



CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21136 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

CHARLES L. NAONE  
89-050 Haleakala Avenue  
Waianae, HI 96792  
(CM #7002 2030 0006 6812 6700)

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Karen Higashi

DATED: July 20, 2004