

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)  
 )  
 PUBLIC UTILITIES COMMISSION )  
 )  
 Instituting an Investigation to )  
 Examine the Compliance of )  
 Trans Hawaiian - Oahu, Inc., )  
 Trans Hawaiian - Hawaii, Inc., )  
 Trans Hawaiian - Maui, Inc., and )  
 Trans Hawaiian - Kauai, Inc. )  
 with Hawaii Revised Statutes )  
 Chapters 269 and 271. )  
 \_\_\_\_\_ )

DOCKET NO. 01-0191

ORDER NO. 21867

RECEIVED  
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DIV. OF CONSUMER AFFAIRS  
DEPT. OF COMMERCE AND INDUSTRY  
STATE OF HAWAII

Filed June 16, 2005  
At 3 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

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with Hawaii Revised Statutes )  
Chapters 269 and 271. )  
-----)

ORDER

By this Order, the commission closes this docket and terminates its investigation to examine the compliance of TRANS HAWAIIAN SERVICES, INC. ("Trans Hawaiian") and its affiliates<sup>1</sup> with Hawaii Revised Statutes ("HRS") chapters 269 and 271 pertaining to certain transactions that allegedly involved Trans Hawaiian and its affiliates and Robert's Tours & Transportation, Inc. and its affiliates (collectively, "Robert's").

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<sup>1</sup>From hereinafter, references to Trans Hawaiian shall also include Trans Hawaiian's regulated affiliates: Trans Hawaiian - Hawaii, Inc., Trans Hawaiian - Oahu, Inc., Trans Hawaiian - Kauai, Inc., and Trans Hawaiian - Maui, Inc.

I.

Background

By Order No. 18581, filed on June 5, 2001, the commission initiated the instant proceeding to examine the compliance of Trans Hawaiian and its affiliates with HRS chapters 269 and 271 pertaining to certain transactions that allegedly involved Trans Hawaiian and its affiliates and Robert's and its affiliates. By that same Order, the commission also made the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate") and Trans Hawaiian's regulated affiliates, Trans Hawaiian-Oahu, Inc., Trans Hawaiian-Maui, Inc., Trans Hawaiian-Kauai, Inc., and Trans Hawaiian-Hawaii, Inc. parties to this proceeding.

On June 25, 2001, the commission issued information requests upon Trans Hawaiian. The response to the commission's information requests were due on July 5, 2001. On July 5, 2001 and July 6, 2001, Trans Hawaiian submitted partial responses to the commission's information requests.<sup>2</sup>

On July 6, 2001, Trans Hawaiian filed its petitions for bankruptcy with the United States Bankruptcy Court for the District of Hawaii ("Bankruptcy Court") in Case Nos. 01-02713 (Trans Hawaiian-Oahu, Inc.), 01-02714 (Trans Hawaiian-Maui, Inc.), 01-02715 (Trans Hawaiian-Kauai, Inc.), 01-02716 (Trans Hawaiian-

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<sup>2</sup>On July 20, 2001, the commission sent Trans Hawaiian a letter indicating that Trans Hawaiian's responses to the commission's information requests were past due.

Hawaii, Inc.). These bankruptcy proceedings have been consolidated with Case No. 01-02712 (Trans Hawaiian Services, Inc.).<sup>3</sup>

## II.

### Discussion

Since opening this investigation on Trans Hawaiian, Trans Hawaiian's trustee in bankruptcy ("John Candon, Chapter 7 Trustee") informed the commission in Docket Nos. 01-0172, 01-0173, 01-0174, 01-0175, and 01-0176 that he has been investigating (1) the same transactions that triggered the initiation of this proceeding, (2) the impact of such transactions on the operation and assets of the Trans Hawaiian carriers, and (3) the purported transfer of the vehicles used by the Trans Hawaiian carriers in their operations before and after the filing of the bankruptcy petitions.<sup>4</sup> John Candon, Chapter 7 Trustee, also informed the commission that he prevailed in his motion for summary judgment to avoid the five (5) prepetition preferential transfers and the one-hundred twenty-six (126) unauthorized post-petition transfers.<sup>5</sup>

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<sup>3</sup>Copies of the petitions for bankruptcy were transmitted to the commission by transmittal dated July 9, 2001 and filed on July 10, 2001. Pursuant to Hawaii Administrative Rules ("HAR")§ 6-61-48, we also take official notice of all records relating to Trans Hawaiian including, without limitation, the bankruptcy proceedings described herein and Docket Nos. 01-0172, 01-0173, 01-0174, 01-0175, and 01-0176.

<sup>4</sup>See, Objection to Proposed Dismissals in Docket Nos. 01-0172, 01-0173, 01-0174, 01-0175, 01-0176, filed on October 19, 2004.

<sup>5</sup>See, Order Granting Trustee John Candon's Motion for Summary Judgment in Case No. 01-02712 in the Bankruptcy Court.

Based on the events described above, the commission finds that many of the concerns of the above-described transactions, which are also the subject of the instant investigative proceeding, are also being reviewed and addressed by the Bankruptcy Court. Accordingly, we find that it is not necessary to duplicate the efforts of the Bankruptcy Court, and that it is prudent and in the public interest to close this investigation pending the disposition of the bankruptcy proceedings relating to Trans Hawaiian. The commission does expect, however, that either Trans Hawaiian or John Candon, Chapter 7 Trustee to continue to advise the commission of any developments in the bankruptcy proceeding including, without limitation, providing copies of the Bankruptcy Court's decision(s) in Case Nos. 01-02712, 01-02713, 01-02714, 01-02715, and 01-02716 (Consolidated).<sup>6</sup> The commission also reserves the right to reopen this proceeding should it later determine after the conclusion of the bankruptcy proceeding that there are still outstanding issues to examine.

### III.

#### Order

THE COMMISSION ORDERS that this docket is closed until further order by the commission. The commission reserves the right

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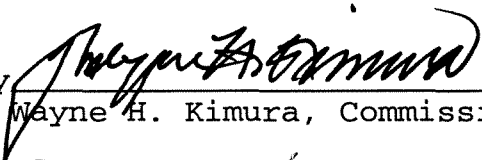
<sup>6</sup>Copies of the petitions for bankruptcy were transmitted to the commission by transmittal dated July 9, 2001 and filed on July 10, 2001. Pursuant to Hawaii Administrative Rules ("HAR")§ 6-61-48, we also take official notice of all records relating to Trans Hawaiian including, without limitation, the bankruptcy proceedings described herein and Docket Nos. 01-0172, 01-0173, 01-0174, 01-0175, and 01-0176.

to reopen this proceeding should it later determine after the conclusion of the bankruptcy proceeding that there are still outstanding issues to examine.

DONE at Honolulu, Hawaii JUN 16 2005.

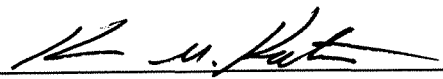
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Kevin M. Katsura  
Commission Counsel

01-0191.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21867 upon the following parties, by causing a copy hereof to be mailed

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Karen Higashi

DATED: June 16, 2005