

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
FRANK D. DUARTE, dba)
DUARTE'S EQUIPMENT RENTAL)
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. 2006-0199

DECISION AND ORDER NO. 22970

RECEIVED
2006 OCT 24 A 9:08
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed Oct. 23, 2006
At 10 o'clock A.M.

Karen Higost.
Chief Clerk of the Commission

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_____)

Docket No. 2006-0199
Decision and Order No. 22970

DECISION AND ORDER

By this Decision and Order, the commission revokes certificate of public convenience and necessity number 5187-C ("Certificate No. 5187-C") held by FRANK D. DUARTE, dba DUARTE'S EQUIPMENT RENTAL ("Respondent").

I.

Procedural History

By Order No. 22711 filed on August 8, 2006, the commission ordered Respondent to appear at 465 South King Street, Room B3, Honolulu, Hawaii 96813, at 9:00 a.m., on September 27, 2006, to show cause why Respondent's Certificate No. 5187-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 years 2004 and 2005, pursuant to Hawaii Revised Statutes ("HRS") §§ 271-25, 271-36, and Hawaii Administrative

Rules ("HAR") §§ 6-62-42(a), 6-62-24(a).¹ In its order, the commission notified Respondent that Certificate No. 5187-C would be revoked if it failed to appear at the scheduled hearing.

On September 27, 2006, Respondent failed to appear before the commission's hearing officer. As a result, the hearing officer recommended that the commission render the following findings and conclusions: (1) Respondent be found in default for failure to appear at the hearing, and (2) Respondent's Certificate No. 5187-C be revoked.

II.

Findings and Conclusions

Based on the entire record, the commission finds that Respondent's failure to appear at the September 27, 2006 hearing constitutes a default in accordance with HAR § 6-68-23. Accordingly, because the commission can assume that the facts alleged in Order No. 22711 are true in the event of a default, and such facts are in violation of applicable laws, rules, and regulations noted above, the commission concludes that Respondent's Certificate No. 5187-C should be revoked.

¹The commission notified Respondent of the September 27, 2006 hearing by serving Order No. 22711 upon Respondent by certified mail, return receipt requested, at Respondent's last known address. Pursuant to HAR § 6-61-21, service is deemed complete upon properly stamping, addressing, and mailing the order to Respondent's last known address, or to Respondent's attorney. Additionally, pursuant to HRS § 91-9.5, the commission provided Respondent with notice of the hearing via statewide publication in newspapers of general circulation on September 5 and September 12, 2006.

III.


Order

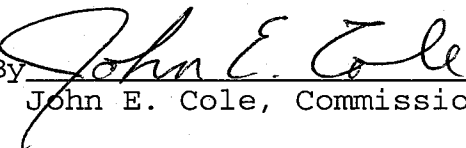
THE COMMISSION ORDERS:

Certificate No. 5187-C is revoked, and this docket is closed unless otherwise ordered by the commission.

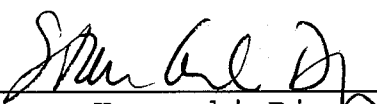
DONE at Honolulu, Hawaii OCT 23 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel


2006-0199.ah

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22970 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

FRANK D. DUARTE
dba DUARTE'S EQUIPMENT RENTAL
P. O. Box 5290
Hilo, HI 96720



Karen Higashi

DATED: OCT 23 2006