

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
FRANK SOARES, JR., dba)
B & J TRUCKING)
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. 2007-0252

ORDER NO. 23928

RECEIVED

2007 DEC 31 A 10:02

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
375 KEELE STREET
HONOLULU, HI 96821

Filed Dec. 27, 2007
At 11 o'clock A .M.

Karen Higashi

Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
FRANK SOARES, JR., dba)
B & J TRUCKING)
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. 2007-0252
Order No. **23928**

ORDER

By this Order, the commission suspends certificate of public convenience and necessity number 5114-C ("Certificate No. 5114-C"), held by FRANK SOARES, JR., dba B & J TRUCKING ("Respondent"), for a period of three (3) months.

I.

Procedural History

By Order No. 23771, filed on October 26, 2007, the commission ordered Respondent to appear at 465 South King Street, Room B3, Honolulu, Hawaii 96813, at 9:00 a.m., on November 20, 2007, to show cause why Respondent's Certificate No. 5114-C should not be suspended or revoked for failure to file an annual financial report ("AFR") and pay an annual motor carrier gross revenue fee ("Fee") for the year 2006, 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. 5114-C would be suspended or revoked if it failed to appear at the scheduled hearing.

On November 20, 2007, Respondent failed to appear before the commission's hearing officer. As a result, the hearing officer recommended that: (1) Respondent be found in default for failure to appear at the hearing, and (2) Respondent's Certificate No. 5114-C be suspended for a period of three (3) months and thereafter be revoked if Respondent fails to file an AFR and pay the Fee for the year 2006.

II.

Findings and Conclusions

Based on the entire record, the commission finds that Respondent's failure to appear at the November 20, 2007 hearing constitutes a default in accordance with HAR § 6-68-23. Accordingly, because the commission can assume the facts alleged in Order No. 23771 are true in the event of a default, and such facts are in violation of the applicable laws, rules, and regulations noted above, the commission concludes that

¹The commission notified Respondent of the November 20, 2007 hearing by serving Order No. 23771 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 hearing via statewide publication in newspapers of general circulation on October 26, 2007 and November 2, 2007.

Respondent's Certificate No. 5114-C should be suspended for a period of three (3) months and thereafter be revoked if Respondent fails to file an AFR and pay the Fee for the year 2006.

III.

Orders

THE COMMISSION ORDERS:

1. Certificate No. 5114-C is suspended for a period of three (3) months, effective from the date of this Order.
2. If Respondent fails to file an AFR and pay the Fee for the year 2006 by the time the suspension period has expired, i.e., three (3) months from the date of this Order, Certificate No. 5114-C shall be revoked.

DONE at Honolulu, Hawaii DEC 27 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Stacey Kawasaki Djou
Stacey Kawasaki Djou
Commission Counsel

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

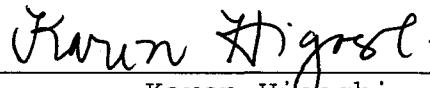
2007-0252.laa

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23928 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

FRANK SOARES, JR., dba
B & J TRUCKING
RR 3 Box 1112
Pahoa, HI 96778



Karen Higashi

DATED: DEC 27 2007