

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 REINSTATING CERTIFICATE NO. 5114-C

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DEPT. OF COMMERCE AND
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STATE OF HAWAII

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COMMISSION

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FILED

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B & J TRUCKING)
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Notice of Failure to Comply)
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Order to Show Cause Why)
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ORDER REINSTATING CERTIFICATE NO. 5114-C

By this Order, the commission vacates its Order Revoking Certificate No. 5114-C ("Order") filed on May 30, 2008, thus reinstating Certificate No. 5114-C held by FRANK SOARES, JR., dba B & J TRUCKING ("Respondent").

I.

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).

On November 20, 2007, Respondent failed to appear before the commission's hearing officer. Thus, by Order No. 23928, filed on December 27, 2007, the commission suspended Respondent's Certificate No. 5114-C for a period of three (3) months, effective from the date of the order, for failure to file his AFR and Fee for the year 2006. In Order No. 23928, we stated that if Respondent did not file an AFR and pay the Fee for the year 2006 by the time the suspension period had expired, i.e., three (3) months from the date of the Order, Certificate No. 5114-C would be revoked. The suspension period of three (3) months expired and Respondent did not file his AFR and Fee for the year 2006. The commission, thus, revoked Certificate No. 5114-C by its Order filed on May 30, 2008.

On June 10, 2008, Respondent filed a timely motion for reconsideration ("Motion for Reconsideration") of our Order filed on May 30, 2008. In his Motion for Reconsideration, Respondent stated, among other things, that he did not receive our notice regarding his failure to file an AFR for the year 2006.

On June 10, 2008, Respondent filed his 2006 AFR and paid his Fee, and on June 25, 2008, paid \$57.69 in penalties and interest that the commission assessed, pursuant to HRS § 271-27(i) and HAR §§ 6-62-24(b)(c) and 6-62-42(d).

II.

Findings and Conclusions

The commission finds that Respondent has fully complied, although belatedly, with the requirements set forth in Order No. 23771 and, thus, finds good cause in this particular instance to reconsider and set aside our Order revoking Certificate No. 5114-C.

III.

Orders

THE COMMISSION ORDERS:


1. Respondent's Motion for Reconsideration of our Order filed on May 30, 2008 revoking Certificate No. 5114-C is granted.
2. The commission's Order filed on May 30, 2008, revoking Certificate No. 5114-C is vacated.
3. Certificate No. 5114-C is reinstated.
4. This docket is closed unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii JUL 16 2008

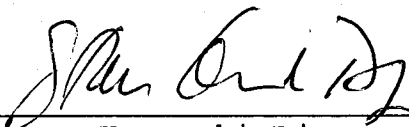
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel

2007-0252.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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
RR3 Box 1112
Pahoa, HI 96778