

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

R&F Hobbies, Inc. d/b/a Prince of the Road,
Complainant,
vs.
A-1 Ambassador Limousine, Inc.,
d/b/a Haymarket Limousine,
Defendant.

) FORMAL COMPLAINT No. 1286
)
) COMPLAINT DISMISSED
) WITHOUT PREJUDICE
)
)
) Entered: January 23, 2001
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)
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BY THE COMMISSION:

On October 24, 1999, R&F Hobbies, Inc., d/b/a Prince of the Road, ("Complainant"), filed a formal complaint with this Commission against A-1 Ambassador Limousine, Inc., d/b/a Haymarket Limousine ("Haymarket Limousine" or "Defendant"), Omaha, Nebraska, stating that the Defendant transported passengers for the Nebraska Department of Health and Human Services at a rate of \$0.98 per mile and alleging that the transportation of clients at that rate was in violation of Neb. Rev. Stat. section 75-126 (1998 Cum. Supp.) by reason that the per mile rate amounted to a charge greater than that which was listed in the tariff which the Defendant filed with the Commission which was \$0.55 per mile. The October 24 Complaint further alleged that Haymarket Limousine rented vehicles from third party and operated these vehicles without displaying a Commission issued license plate as required by Commission rules. On November 9, 2000, the Defendant filed an answer either denying the relevant parts of the Complaint or denying that the activity engaged in was a violation of Commission rules.

On December 12, 2000, Complainant filed a second formal complaint with this Commission against Haymarket Limousine alleging that the Defendant leased a vehicle to transport passengers in contradiction of their granted authority and in violation of Commission rules. Complainant further alleged that the Defendant operated the leased vehicle without a proper door display. The Complainant's asked the Commission to impose "appropriate sanctions" on the Defendant. Complainant also prayed that the Commission hold a hearing on this matter. On December 12, 2001, Complainant filed a Show Cause Motion as to why the certificate of the Defendant should not be suspended or alternative sanctions ordered due to the fact that the Defendant failed to timely file an Answer with the Commission.

We join these two complaints together under Docket FC-1286 for

purposes of administrative efficiency and ease of disposal.

OPINION AND FINDINGS

Because we find that the Complainant lacks standing to bring a formal complaint and for the relief prayed for in the complaint, the Commission finds that these two complaints which are joined together in FC-1286 should be, and are hereby, dismissed without prejudice. In resolving a formal complaint, the Commission acts in its quasi-judicial role of resolving disputes between parties. As such, the Commission acts as a court overseeing what must necessarily be an adversarial proceeding.

Standing relates to jurisdiction and prudential considerations regarding exercise of jurisdiction. As an aspect of jurisdiction and justiciability, standing requires that a litigant have such a personal stake in the outcome of a controversy as to warrant invocation of a court's jurisdiction and justify exercise of the court's remedial powers on the litigant's behalf. Thus, generally, litigant must assert the litigant's own legal rights and interests, and cannot rest a claim on the legal rights or interests of third parties. *State v. Baltimore*, 242 Neb.562, 568-69 (1993).

In the instant case Prince of the Road lacks standing to bring a formal complaint against the Defendant because it fails to assert which of its own legal rights and interests are affected by the actions of the defendant which are allegedly violations of Commission rules.

In *State v. Baltimore*, the Nebraska Supreme Court identified the elements of standing,

A litigant first must clearly demonstrate that he has suffered an "injury in fact." That injury, we have emphasized repeatedly, must be concrete in both a qualitative and temporal sense. The complainant must allege an injury to himself that is "distinct and palpable", as opposed to merely "abstract," and the alleged harm must be actual or imminent, not "conjectural" or "hypothetical." Further, the litigant must satisfy the "causation" and "redressability" prongs of the Art. III minima by showing that the injury "fairly can be traced to the challenged action" and "is likely to be redressed by a favorable decision." *Id.*, at 569 citing *Whitmore v. Arkansas*, 495 U.S. at 155-56. [Citations omitted.]

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Complainant has failed in these formal complaints to meet any of the elements required for standing. Complainant has failed to assert any injury much less one that is not speculative or hypothetical, has therefore failed to demonstrate causation, and therefore cannot show how the remedy prayed for redresses any harm.

Although it seems unlikely that the Complainant can redraft these complaints to meet the threshold requirements of standing, we nonetheless dismiss the complaints contained herein without prejudice to allow the Complainant opportunity to refile these complaints with the requisite demonstrations of injury, causation and redressability.

Our dismissal of this complaint does not end our inquiry as to the allegations contained herein, but any investigatory findings of the Commission will be made in a forum and format outside of this docket.

Further, we dismiss Complainant's follow-up Show Cause Motion on the same rationale as we dismiss this underlying formal complaint.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Formal Complaint of R&F Hobbies, Inc., d/b/a Prince of the Road against A-1 Ambassador Limousine, Inc., should be, and is hereby, dismissed without prejudice.

MADE AND ENTERED in Lincoln, Nebraska on this 23rd day of January, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Frank E. Landis

Frank E. Landis

//s//Frank E. Landis

Frank E. Landis
Chairman

ATTEST:

And S. Pollack
Executive Director

