

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Jamie Reyes,)	Application No. MCC-3196.01
Director, Motor Transportation)	
Department, Nebraska Public)	
Service Commission,)	
Complainant,)	
vs.)	
Alpha Life Improvement)	
Services; Bus at the Yard d/b/a)	
Luxury Limousine; Caring Hearts)	
Transportation; Reliance)	ORDER DISMISSING IN PART
Medical Transportation LLC;)	AND SUSTAINING IN PART
Heartland Party Bus; Jason's)	
Limousine Service; Kelly)	
DeSive; National Health)	
Transport; Nebraska Taxi, LLC;)	
Ollie the Trolley; Tree City)	
Cab Company; Wings of Love; A &)	
A Landscaping; American Eagle)	
Van Lines, Inc.; Blair Moving;)	
Ford Storage & Moving Co.;)	
Middle West Movers; Nebraska)	
Transport Co., Inc.; and Smoldt)	
Moving & Storage, Inc.,)	Entered: June 11, 2019
Respondents.)	

BEFORE THE COMMISSION:

On March 5, 2019, Jamie Reyes, Director of the Motor Transportation Department ("Complainant") filed a complaint against the above-captioned Respondents alleging violation of NEB. REV. STAT. § 75-305 (Cum. Supp. 2016). Complainant alleges that Respondents failed to timely file the annual fees as required by § 75-305 by March 1, 2019. Complainant seeks an order revoking Respondents' Certificates of Public Convenience and Necessity and to require Respondents to cease and desist from offering services as motor carriers pursuant to § 75-133, and/or to assess any such penalties authorized by law for failure to remit annual fees in compliance with § 75-305.

As of March 1, 2019, the following carriers had not paid the appropriate annual fees to the Commission: Alpha Life Improvement Services; Bus at the Yard d/b/a Luxury Limousine; Caring Hearts Transportation; Reliance Medical Transportation,

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. MCC-3196.01

Page 2

LLC; Heartland Party Bus; Jason's Limousine Service; Kelly DeSive; National Health Transport; Nebraska Taxi, LLC; Ollie the Trolley; Tree City Cab Company; Wings of Love; A & A Landscaping; American Eagle Van Lines, Inc.; Blair Moving; Ford Storage and Moving Co.; Middle West Movers; Nebraska Transport; and Smoldt Moving and Storage, Inc. Notice of the hearing was sent by certified mail to all affected carriers.

On April 9, 2019, the Commission entered an order dismissing National Health Transport; Ford Storage and Moving Co.; and American Eagle Van Lines from the Complaint.

On April 16, 2019, the Commission entered an order dismissing Smoldt Moving and Storage, Inc. and Heartland Party Bus from the Complaint.

On April 23, 2019, the Commission entered an order dismissing Caring Hearts Transportation; Wings of Love; Kelly DeSive; Reliance Medical Transportation, LLC; Ollie the Trolley; Tree City Cab Company; Nebraska Transport Co, Inc.; and Jason's Limousine Service from the Complaint.

A hearing was held on the complaint on April 23, 2019, in the Commission Hearing Room regarding the remaining Respondents, Alpha Life Improvement Services; Nebraska Taxi, LLC; Middle West Movers; Blair Moving; A & A Landscaping; and Bus at the Yard, d/b/a Luxury Limousine. Appearances were made by Mr. Dillon Kieffer-Johnson, Senior Certified law student, Ms. Jamie Reyes and Ms. Ellie Rohr for the Commission. No affected carriers appeared at the hearing.

E V I D E N C E

Mr. Dillon Kieffer-Johnson, law clerk and Senior Certified law student for the Commission, provided information as to the status of the remaining respondents. Mr. Kieffer-Johnson stated that Alpha Life Improvement Services initially did not receive service as the complaint was returned to the Commission as undeliverable. However, the Department was able to reach Dr. Justice Braimah, the owner of the Alpha Life, who was able to accept service of the Complaint at the Commission office.¹ Subsequently, Alpha Life remitted payment of the annual renewal and properly requested a one-time waiver of the penalty for late

¹ Hrg. Transcr. 7:23-8:3. (April 23, 2019).

payment.² Based on this evidence, the Transportation Department recommended dismissing Alpha Life Improvement Services from the Complaint. Further, the Department recommended waiver of the civil penalty as Alpha Life has not previously been late with its annual renewal.³

Mr. Kieffer-Johnson next discussed Nebraska Taxi, LLC. Nebraska Taxi paid the annual renewal fee on March 8, 2019. Nebraska Taxi was named a Respondent in the previous year's Department Complaint regarding the 2018 annual renewal fee and was granted a waiver of its civil penalty; therefore, the company was ineligible for a waiver in 2019. Nebraska Taxi requested a reconsideration of this policy, which was denied. Nebraska Taxi subsequently paid the penalty and submitted a signed stipulation agreement.⁴ Based upon the payment and stipulation agreement, the Department recommended dismissing Nebraska Taxi from the Complaint.⁵

Next, Mr. Kieffer-Johnson discussed Middle West Movers. Middle West Movers never signed for the certified copy of the order. However, email exchanges between Middle West and Department Staff provide evidence that they did receive notice of the complaint.⁶ Middle West remitted the annual renewal payment on March 31, 2019. Middle West was a Respondent in the previous year's Department Complaint regarding the 2018 annual renewal fee and was granted a waiver of its civil penalty; therefore, the company did not qualify for a waiver of the penalty this year. Middle West filed a signed stipulation agreeing to pay the penalty on April 18, 2019. Payment of the stipulated civil penalty had not been received at the time of the hearing. The Department recommended dismissing Middle West Movers from the complaint pending the arrival of their payment.⁷ Commissioner Schram questioned why there was not a payment deadline on the penalty payment. Specifically, he was concerned that other carriers paid in a timely manner but the department has cut off the fine at \$400 despite not receiving payment. Ms. Reyes explained that this was an unusual circumstance where the Department accepted the stipulation electronically and Middle West was sending the original and the check via mail. Ms. Rohr further explained that the \$400 was determined as of the date

² *Id.* at 8:4-10.

³ *Id.* at 8:23-9:2.

⁴ *Id.* at 9:4-9.

⁵ *Id.* at 9:23-10:1.

⁶ *Id.* at 10:3-11.

⁷ *Id.* at 10:16-11:9

Middle West paid their annual renewal fee, not the date of the penalty payment. All carriers would be assessed a penalty as of the date they pay the renewal and it would cease accruing based upon that date.⁸

Next, Mr. Kieffer-Johnson discussed Blair Moving. He explained that Blair Moving signed for a certified copy of the Complaint.⁹ However, the company was unresponsive to any follow up calls or emails by the Department.¹⁰ Blair Moving did not pay the annual renewal. As of the date of the hearing, Blair Moving had accrued \$2700 in late penalties. The Department recommends a formal assessment of \$2700 for failing to pay the annual renewal. Additionally, the Department recommends revocation of Blair Moving's certificate for failure to comply with NEB. REV. STAT. § 75-305 and Commission Rules and Regulations.

Next, Mr. Kieffer-Johnson discussed A & A Landscaping. He stated that A & A Landscaping signed for the certified copy of the Complaint.¹¹ However, they were unresponsive to any follow up calls or emails by the Department.¹² The company also did not pay the annual renewal. As of the date of the hearing, A & A Landscaping had accrued \$2700 in late penalties. The Department recommends a formal assessment of \$2700 for failing to pay the annual renewal. Additionally, the Department recommends revocation of A & A Landscaping's certificate for failure to comply with NEB. REV. STAT. § 75-305 and Commission Rules and Regulations.

The final Respondent that Mr. Kieffer-Johnson discussed was Bus at the Yard, d/b/a Luxury Limousine. Bus at the Yard failed to sign for the certified copy of the Complaint. Department staff was unable to reach anyone with the company until late March. On April 1, 2019, a company representative picked up the Complaint from the Commission and paid the annual renewal fee.¹³ Bus at the Yard had not previously been a Respondent in an annual renewal complaint and would have been eligible for a waiver of the penalty. Department staff offered this option several times; however, Bus at the Yard failed to submit a request for the waiver. Additionally, Bus at the Yard failed to

⁸ *Id.* at 12:7-13:9

⁹ *Id.* at 13:11-14.

¹⁰ *Id.* at 13:19-14:3

¹¹ *Id.* at 15:14-16.

¹² *Id.* at 15:20-16:2

¹³ *Id.* at 17: 11-20.

pay the penalty and sign a stipulation.¹⁴ Based on this evidence, the Department recommended that Bus at the Yard, d/b/a Luxury Limousine, be assessed an administrative penalty of \$500.

O P I N I O N A N D F I N D I N G S

The motor carriers and/or transportation network companies (TNC) subject to this complaint are regulated by the Commission pursuant to Neb. Rev. Stat. §§ 75-101 et. seq. (Supp. 2015), § 75-301 et. seq. (Cum. Supp. 2016), and Title 291, NAC Ch. 3 of Commission Rules and Regulations.

NEB. REV. STAT. § 75-305(1)-(2) requires all regulated motor carriers and transportation network companies to pay an annual fee to the Commission in an amount determined by the Commission not to exceed eighty dollars (\$80) on each motor vehicle operated. Annual fees are due and payable to the Commission on or before January 1 and are considered delinquent March 1.¹⁵

The carriers named in the March 6, 2018, Order failed to timely comply with § 75-305(3). The Commission, therefore, may assess any penalty or grant any relief allowed by law, including ordering carriers to cease and desist operations or revoke the certificates of public convenience and necessity issued to the carriers after notice and public hearing. All Respondents but six were dismissed by Commission Order subsequent to the initiation of the Complaint. The remaining Respondent

Alpha Life Improvement Services, Nebraska Taxi, LLC, and Middle West Movers

Of the remaining Respondents, these three Respondents complied with all requirements to bring their certificates into good standing. Nebraska Taxi, LLC and Middle West Movers entered into stipulation agreements with the Department, which are approved. Both carriers are on notice that failure to remit future annual fee payments in a timely manner may result in more severe penalties.

In the case of Alpha Life Improvement Services, a one-time waiver of its civil penalty was granted. Alpha Life is on notice that failure to remit future annual fee payments in a

¹⁴ *Id.* at 18:1-10

¹⁵ Neb. Rev. Stat. § 75-305(3) (Supp. 2015).

Application No. MCC-3196.01

Page 6

timely manner will result in additional administrative fines and penalties.

Based on the above, the Commission finds that Alpha Life Improvement Services, Nebraska Taxi, LLC, and Middle West Movers should be dismissed from the Complaint.

Bus at the Yard, d/b/a Luxury Limousine

Bus at the Yard d/b/a Luxury Limousine, complied with the Commission requirements in part. The Annual Renewal Fee was paid 32 days late, but the company was eligible for a one-time waiver of the civil penalty. However, they did not request a waiver, pay the civil penalty, and failed to appear at the hearing.

Based on the above, the Commission finds that Bus at the Yard, d/b/a Luxury Limousine should be assessed a penalty in the amount of five hundred dollars (\$500), and the Certificate of Public Convenience and Necessity should be suspended. Bus at the Yard must cease and desist providing service in the state of Nebraska as of the effective date of this Order until all necessary steps are taken to bring the Certificate into compliance. Pursuant to Commission Rule of Procedure 007.06, Bus at the Yard must pay the penalty assessment within thirty (30) days from the date that this Order is mailed. Failure to pay the penalty may result in the Commission pursuing revocation of the Certificate and the matter being referred to the Attorney General's Office for Collection through the District Court of Lancaster County. Additionally, no subsequent applications for authority will be allowed until the penalty is satisfied and the carrier is returned to good standing.

Blair Moving and A & A Landscaping

Lastly, Blair Moving and A & A Landscaping were notified of the requirements of § 75-305 by first class mail on November 1, 2018, January 7, 2019, and February 4, 2019. The carriers were sent a copy of the March 5, 2019, order and notice of the April 23, 2019, show cause hearing. No representatives from Blair Moving or A & A Landscaping appeared at the hearing to show cause as to why their certificates of public convenience and necessity should not be revoked and penalties assessed. Commission staff received no contact from these carriers regarding the annual fees or Complaint, and the carriers did not voluntarily cancel their certificates of authority.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. MCC-3196.01

Page 7

Based on the above, the Commission finds that the Certificates of Public Convenience and Necessity issued for Blair Moving and A & A Landscaping should be revoked. The carriers must cease and desist providing service in the state of Nebraska as of the effective date of this Order. All PSC plates assigned to Blair Moving and A & A Landscaping must be returned to the Commission within ten (10) days of the effective date of this Order.

The Commission further finds that civil penalties in the amount of two-thousand, seven hundred dollars (\$2,700) should be assessed. Pursuant to Commission Rule of Procedure 007.06, Blair Moving and A & A Landscaping must pay the penalty assessment within thirty (30) days from the date this Order is mailed. Failure to pay the penalty may result in the Commission pursuing revocation of the Certificate and the matter being referred to the Attorney General's Office for Collection through the District Court of Lancaster County. Additionally, no subsequent applications for authority will be allowed until the penalty is satisfied and the carrier is returned to good standing.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the complaints against Alpha Life Improvement Services; Middle West Movers; and Nebraska Taxi, LLC, be, and are hereby, dismissed.

IT IS FURTHER ORDERED that the complaint against Bus at the Yard, d/b/a Luxury Limousine in Certificate B-1909 be, and is hereby, sustained and that Certificate B-1909 be, and is hereby, suspended until such time as the Certificate is brought into compliance.

IT IS FURTHER ORDERED that the complaints against Blair Moving in Certificate M-14109, and A & A Landscaping, M-14221; be, and are hereby, sustained and the Certificates of Public Convenience and Necessity be, and are hereby, revoked.

IT IS FURTHER ORDERED that the carriers revoked herein shall cease and desist providing service in the State of Nebraska as of the effective date of this Order. Any vehicle plates assigned by the Commission must be returned to the

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. MCC-3196.01

Page 8

Commission within ten (10) days of the effective date of this Order.

IT IS FINALLY ORDERED that civil penalties in the amount of \$500 be assessed to Bus at the Yard, d/b/a Luxury Limousine; and \$2,700 assessed to Blair Moving and A & A Landscaping. Failure to pay these penalties within thirty (30) days from the mailing of this Order may result in the matter being referred to the Attorney General's Officer for Collection through the District Court of Lancaster County. No subsequent applications for authority will be allowed until the penalty is satisfied and the carrier is returned to good standing.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 11th day of June, 2019.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Crystal Unwachs

Chair

Paul Jensen

ATTEST:

Tim Schram

Michelle HSC

Executive Director

Donna M. Mues