

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Jamie L. Reyes, Director,)	Docket No. MCC-3196.02
Motor Transportation)	
Department, Nebraska Public)	
Service Commission, Lincoln,)	
Nebraska)	
)	
COMPLAINANT,)	
vs.)	
)	
Alpha Life Improvement)	
Services; Big A Holdings, LLC)	
d/b/a OMALiNK; Big O's Party)	
Bus, LLC; Bus at the Yard)	
d/b/a Luxury Limousine; Careem)	
Transportation, LLC; Daniel's)	ORDER DISMISSING IN PART AND
Moving & Storage of Omaha,)	SUSTAINING IN PART
LLC; Denver Coach, Inc.; First)	
Student d/b/a First Student,)	
Inc.; Ford Storage & Moving)	
Co.; Good Times Limousine,)	
Inc.; Kelly DeSive; King's)	
Moving; Modest Movers, LLC)	
d/b/a Middle West Movers;)	
Nebraska Taxi, LLC; Night Life)	
Limousine, LLC; Omaha Omaha)	
Handicap Transportation)	
Services; Rapid Shuttle)	
Service; Roadrunner Bus, LLC;)	
Ronald D. Allgood d/b/a Tree)	
City Cab Company; Siouxland)	
Paramedics, Inc.; T and T)	
Party Bus, LLC d/b/a T & T)	ENTERED: June 30, 2020
Limousines; and The Wine Bus,)	
LLC,)	

RESPONDENTS.

BY THE COMMISSION:

On March 10, 2020, 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 (Reissue 2018). Complainant alleges that Respondents failed to timely file annual fees as required

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by § 75-305 by March 1, 2020. 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 fines authorized by law for failure to remit annual fees in compliance with § 75-305.

On April 7, 2020, King's Moving was dismissed from the Complaint. On April 21, 2020 Ronald D. Allgood d/b/a Tree City Cab Company; Big A Holdings d/b/a OMALiNK; Nightlife Limousine, LLC; and The Wine Bus, LLC were dismissed from the Complaint. Finally, on May 5, 2020, Daniel's Moving & Storage of Omaha, LLC, and Omaha Omaha Handicap Transportation Services were dismissed from the Complaint.

Hearing on this matter was held on May 5, 2020 in the Commission Hearing Room and WebEx video conference. Mr. Dillon Keiffer-Johnson and Ms. Jamie Reyes appeared on behalf of Commission staff. The following carriers had a representative appear at the hearing: Careem Transportation; Bus at the Yard d/b/a Luxury Limousine; and Big O's Party Bus.

E V I D E N C E

First, Mr. Todd Oborny made a statement on behalf of Big O's Party Bus. Mr. Oborny testified that he owns a bar in Columbus, Nebraska and operates the bus part-time. Mr. Oborny attempted to sell his bus last November or December but the deal fell through. When he noticed that the vehicle's plates were expired, he sent a check to take care of a new plate. Mr. Oborny stated that he did not realize that there was still an issue until he was notified that his payment was late.¹ When asked if he recalled the timing of the payment, Mr. Oborny stated that he mailed the check to the Commission in February but was told that the check was never received. He sent a new check to the Commission in March in order to stop the fine accrual. Mr. Keiffer-Johnson then stated into the record that the annual renewal payment was received on April 14, 2020 and that the company had accrued a fine of \$1,700.² In response to a

¹ Hearing Transcript (TR) 21:16 - 22:11.

² TR 23:5 - 20.

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Commissioner question as to whether the carrier's insurance policy was current, Mr. Oborny answered that it was.³

Next, Ms. Lauren Marsh made a statement on behalf of Bus at the Yard d/b/a Luxury Limousine. Ms. Marsh testified that she was unaware that annual fees had not been paid prior to receiving an email notification from Mr. Keiffer-Johnson, and had paid the annual fee the morning of the hearing. Ms. Marsh also submitted a change of address request to Commission staff, as she did not recognize the person that signed for the certified mail sent by the Commission.⁴ Ms. Marsh stated that she received a copy of the complaint by personal service the week prior. Mr. Keiffer-Johnson then stated into the record that the company was a Respondent in the 2019 annual renewal complaint and therefore not eligible for a waiver of administrative fines. As a result, the carrier had accrued a total fine in the amount of \$3,800. Ms. Marsh then requested a payment plan, as the carrier has been unable to run its vehicles and earn any revenue for two months due to the COVID-19 health measures.⁵ Finally, Ms. Marsh stated that she was unsure whether Luxury Limousine had an active insurance policy in place, as the carrier has been shut down but understood that an active policy was required in order to operate.⁶

The Commission also received a statement from Mr. Osman Ahmed, owner of Careem Transportation, LLC. Mr. Ahmed stated that he has had difficulties obtaining an insurance policy and filed an application to suspend his company a few days prior to the hearing. Mr. Keiffer-Johnson stated that Careem has not paid the annual renewal payment but is eligible for a waiver of the accrued fine since it has not been named a Respondent on a previous complaint. The Department recommended that the Commission grant Careem's suspension request.⁷

Next, Mr. Dillon Keiffer-Johnson, Commission staff attorney, provided information regarding the status of the remaining Respondents. In regards to Alpha Life Improvement Services ("Alpha Life"), Mr. Keiffer-Johnson stated the annual

³ TR 24:8 - 25:15.

⁴ TR 26:17 - 29:7.

⁵ TR 29:15 - 30:6.

⁶ TR 32:4 - 13.

⁷ TR 50:1 - 52:18.

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renewal fee has been paid but the carrier has accrued an administrative fine of \$2,000 and is not eligible for a waiver of said fines. The Department recommended that the fine be levied against Alpha Life.⁸

In regards to Ford Storage and Moving Company ("Ford"), Mr. Keiffer-Johnson stated that Ford has paid the annual renewal fee, paid its accrued fine of \$1,800 and signed a stipulated agreement with the Department in order to be dismissed from the complaint. The Department recommended that Ford be dismissed.⁹

Next, Mr. Keiffer-Johnson discussed Kelly DeSive. Mr. Keiffer-Johnson stated that Ms. DeSive signed the return receipt notice, entered as evidence that Ms. DeSive was aware of the complaint that was sent March 10, 2020. Mr. Keiffer-Johnson then noted that Ms. DeSive paid the annual renewal but has accrued a fine of \$1,600. The Department recommended that the fine be assessed against Ms. DeSive.¹⁰

Next, Mr. Keiffer-Johnson discussed carriers that had paid the annual renewal, accrued an administrative fine, and were eligible for waiver of those fines- First Student and Siouxland Paramedics. First, Mr. Keiffer-Johnson stated that First Student is eligible to request a waiver of the \$1,700 fine since the carrier has not been named a Respondent in a previous complaint. However, Commission staff have been unable to contact a representative to discuss the waiver option. Therefore, the Department recommended that the fine be assessed.¹¹ In regards to Siouxland Paramedics ("Siouxland"), Mr. Keiffer-Johnson stated that the carrier has accrued a fine of \$3,000 and were eligible for waiver since they had not been named a Respondent on a previous complaint. A request for waiver of the fine was filed by an attorney on behalf of Siouxland; however, the required stipulation agreement has not been returned to the Commission. The Department recommended that the fine be assessed, noting that the Commission could decide to accept the stipulation agreement and dismiss Siouxland from the complaint.¹²

⁸ TR 34:9 - 36:2.

⁹ TR 36:7 - 37:9.

¹⁰ TR 37:13 - 39:16.

¹¹ TR 40:8 - 42:11.

¹² TR 42:22 - 47:5.

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Mr. Keiffer-Johnson then discussed Modest Movers d/b/a Middle West Movers ("Modest Movers"), stating that a representative of Modest Movers informed Commission staff that the company has been out of business since last year. Modest Movers has not returned a revocation form. The Department therefore recommended that the accrued fine of \$3,800 be assessed and the certificate of authority be revoked.¹³

Next, Mr. Keiffer-Johnson discussed Nebraska Taxi, stating that Commission staff attempted numerous avenues to contact the carrier regarding the complaint. Staff spoke with a company representative, who indicated that the annual renewal would be paid. Mr. Keiffer-Johnson stated that the annual renewal has not been paid and the Department has not had any further contact with the representative or the owner. The Department therefore recommended that the \$3,800 accrued fine be assessed and the certificate of authority be revoked.¹⁴

In regards to Denver Coach, Mr. Keiffer-Johnson stated that Denver Coach received notice of the complaint by personal service the week prior to the hearing. Commission staff spoke with a receptionist with Denver Coach, but not the owner. The owner left one voicemail with Commissions staff, but none of the staff's follow up calls to Denver Coach were returned. As a result, the Department recommended that Denver Coach be assessed the \$3,800 accrued fine and its certificate of authority be revoked.¹⁵

Next, Mr. Keiffer-Johnson informed the Commission that Good Times Limousine, Rapid Shuttle Service, Roadrunner Bus, and T & T Limousines did not pay annual renewal fees and accrued the maximum fine amount of \$3,800. Rapid Shuttle Service, Roadrunner Bus, and T & T Limousines informed the Commission that they were no longer in business but none had filed a revocation application. Therefore, the Department recommended assessing the \$3,800 fine and revoking the certificate of authority for all four Respondents.¹⁶

¹³ TR 53:1 - 54:23.

¹⁴ TR 55:7 - 57:9.

¹⁵ TR 57:12 - 59:18.

¹⁶ TR 59:21 - 68:6.

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When asked for clarification of waiver availability, Ms. Reyes explained that a carrier is eligible for a waiver if the carrier has not been late paying annual renewal fees previously and experienced an extenuating circumstance that prevented them from paying the fee prior to March 1st. Ms. Reyes stated that those eligible carriers are asked to submit a written waiver request that details those circumstances. A waiver is available one time, unless the Commission determined that a non-eligible carrier has an extreme extenuating circumstance that would warrant granting a subsequent waiver request.¹⁷ Finally, Ms. Reyes clarified that any carriers whose authority is revoked along with a fine assessment must pay the fine before the authority could be reinstated.¹⁸

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

The motor carriers 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 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 1.¹⁹

The carriers named in this complaint 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 after notice and hearing. The Commission's findings regarding each Respondent shall be detailed below.

Ford Storage & Moving

Prior to the hearing, Ford Storage complied with all requirements to bring its certificate into good standing. The

¹⁷ TR 69 - 71:4.

¹⁸ TR 71:10 - 22.

¹⁹ Neb. Rev. Stat. § 75-305(3) (Supp. 2015).

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carrier entered into a stipulated agreement with the Department, which has been approved. Therefore, Ford Storage will be dismissed from the complaint.

Siouxland Paramedics

Siouxland Paramedics paid its annual renewal fee and submitted its request to waive civil penalties. The carrier has been sent a stipulated agreement but has yet to return said agreement to the Department. The Commission finds that Siouxland has fifteen (15) days to complete its compliance or it may be subject to additional Commission action, including assessment of the civil penalty of three-thousand dollars (\$3,000).

First Student

First Student paid its annual renewal fee and has been sent a stipulated agreement with notice that it is eligible to request a waiver of civil penalties. However, First Student has yet to return the agreement or request a waiver. The Commission therefore finds that First Student has fifteen (15) days to complete its compliance or it may be subject to additional Commission action, including assessment of the civil penalty of one-thousand, seven-hundred dollars (\$1,700).

Alpha Life Improvement Services

Alpha Life Improvement Services paid their annual renewal fees, but has accrued a fine and is ineligible to request a waiver of the fine. Although Alpha Life spoke with Commission staff to ask for an alternate solution to the fine payment, no representative of the company appeared at the show-cause hearing to discuss such an option. Therefore, the Commission finds that Alpha Life shall pay a penalty of two-thousand dollars (\$2,000). Commission Rule of Procedure 007.06B requires any penalty assessed be paid within thirty (30) days from the date the Order is mailed. If the fine is not paid, the carrier may be subject to further Commission action and no subsequent applications for authority will be allowed until the fine is satisfied. The Commission also finds that Alpha Life shall cease and desist all

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operations until such time as civil penalties are paid and the certificate of authority is returned to good standing.

Big O's Party Bus, LLC, Bus at the Yard d/b/a Luxury Limousine

Big O's Party Bus, Bus at the Yard d/b/a Luxury Limousine appeared at the show-cause hearing. Big O's and Luxury Limousine each informed the Commission of their circumstances with revenue loss during the COVID-19 pandemic, and sought help from Commission staff to pay the administrative fine. The Commission has determined that circumstances exist to warrant allowing Big O's and Luxury Limousine the ability to pay their administrative fine in partial amounts over time. Therefore, the Commission finds that Big O's Party Bus, LLC shall pay a civil penalty of one-thousand, seven-hundred dollars (\$1,700) and Bus at the Yard d/b/a Luxury Limousine shall pay a civil penalty of three-thousand, eight-hundred dollars (\$3,800). The Department will send each carrier a stipulation agreement outlining the payment details, which must be returned to the Commission within thirty (30) days of receipt. Failure to do so may result in further Commission action.

Careem Transportation, LLC

Careem Transportation, LLC also appeared at the show-cause hearing. Careem Transportation testified that it filed an application to suspend its authority, which notes a request for suspension until April 20, 2021. The Commission finds that the suspension request should be granted and the complaint dismissed against Careem Transportation. A separate Order shall be entered regarding the suspension.

Kelly DeSive, Nebraska Taxi, Denver Coach

Subsequent to the hearing, these three Respondents contacted the Commission regarding the complaint. Kelly DeSive has paid the annual renewal but is ineligible for a waiver of the civil penalty. Nebraska Taxi has not paid the annual renewal and is ineligible for a waiver of the civil penalty. Denver Coach has not paid the annual renewal. Although Denver Coach has told the Department that he mailed his annual renewal payment to the Commission in November, the payment has not been

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located. Denver Coach is eligible for a waiver of the civil penalty.

No representative of these three carriers appeared at the show-cause hearing to explain any circumstances that would prevent Commission action and instead attempted to discuss such circumstances after the hearing date. The Commission will give each carrier an opportunity to come into compliance.

Based on the above, the Commission finds that Kelly DeSive should pay a civil penalty of one-thousand, nine-hundred dollars (\$1,900). Nebraska Taxi should pay its annual renewal fee and pay a civil penalty of three-thousand, eight-hundred dollars (\$3,800). Commission Rule of Procedure 007.06B requires any penalty assessed be paid within thirty (30) days from the date the Order is mailed. If the fine is not paid, the carrier may be subject to further Commission action and no subsequent applications for authority will be allowed until the fine is satisfied.

The Commission also finds that Denver Coach should pay its annual renewal and will allow Denver Coach fifteen (15) days from the effective date of this Order to request a waiver of the accrued fine. Failure to do so will may result in further Commission action, including assessment of the three-thousand, eight-hundred dollar (\$3,800) fine.

The Commission also finds that Kelly DeSive, Nebraska Taxi, and Denver Coach shall cease and desist all operations until such time as annual fees and/or civil penalties are paid and the certificate of authority is returned to good standing.

Rapid Shuttle Service, Roadrunner Bus, T & T Limousines, Modest Movers, LLC d/b/a Middle West Movers

Modest Movers filed an application to cancel its certificate of authority. Therefore the complaint against Modest Movers, LLC d/b/a Middle West Movers should be dismissed. The Commission will take action to cancel this authority in a separate Order.

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Rapid Shuttle Service, Roadrunner Bus, and T & T Limousines informed the Department that they have ceased operations, but have not filed written notification of their intent to cancel their certificates of authority. Therefore, the certificates of public convenience and necessity for Rapid Shuttle Service, Roadrunner Bus, and T & T Limousines should be revoked. All PSC plates assigned to these carriers must be returned to the Commission within ten (10) days of the effective date of this Order. The Commission further finds that each carrier shall pay a civil penalty in the amount of three-thousand, eight-hundred dollars (\$3,800). Commission Rule of Procedure 007.06B requires any penalty assessed be paid within thirty (30) days from the date the Order is mailed. If the fine is not paid, the carrier may be subject to further Commission action and no subsequent applications for authority will be allowed until the fine is satisfied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the complaints against Careem Transportation, Ford Storage & Moving, Modest Movers, LLC d/b/a Middle West Movers be, and are hereby, dismissed.

IT IS FURTHER ORDERED that the complaints against Denver Coach, First Student, and Siouxland Paramedics, be, and are hereby sustained. These carriers must complete all outstanding compliance within fifteen (15) days of the effective date of this Order or may be subject to further Commission action.

IT IS FURTHER ORDERED that the complaints against Alpha Life Improvement Services; Big O's Party Bus, LLC; Bus at the Yard, LLC d/b/a Luxury Limousine; Kelly DeSive; and Nebraska Taxi be, and are hereby, sustained.

IT IS FURTHER ORDERED that the complaints against Rapid Shuttle Service, Roadrunner Bus, and T & T Limousines be, and are hereby, sustained and the Certificates of Public Convenience and Necessity be, and are hereby, revoked.

IT IS FURTHER ORDERED that carriers revoked herein shall cease and desist providing service in the state of Nebraska as

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of the effective date of this Order. Any vehicle with license plates assigned by the Commission must be returned to the Commission within ten (10) days of the effective date of this Order.

IT IS FINALLY ORDERED that civil penalties in the amount of \$1,700 be assessed to Big O's Party Bus, LLC; \$1,900 be assessed to Kelly DeSive; \$2,000 be assessed to Alpha Life Improvement Services; and \$3,800 be assessed to Bus at the Yard, LLC d/b/a Luxury Limousine, Denver Coach, Rapid Shuttle Service, Roadrunner Bus, and T & T Limousines. Failure to pay these penalties within thirty (30) days from the mailing of this Order may result in the matter being referred to the Nebraska Attorney General's Officer for Collection through the District Court of Lancaster County. Carriers shall cease and desist providing service in the state of Nebraska as of the effective date of this Order. 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 30th day of June, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



Chair

ATTEST:



Executive Director