

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Docket No. B-1343  
Public Service Commission, on )  
its own motion, to require )  
Denver Coach, Inc., ) ORDER SUSTAINING SHOW  
Scottsbluff, to show cause ) CAUSE AND REVOKING  
why the Commission should not ) CERTIFICATE B-1343  
revoke its Certificate of )  
Public Convenience and )  
Necessity. ) ENTERED: December 8, 2020

BY THE COMMISSION:

On June 30, 2020, the Nebraska Public Service Commission ("Commission") entered an Order to dismiss in part and sustain in part a complaint that was filed by Jamie Reyes, Director of the Motor Transportation Department, against numerous carriers for failure to timely remit annual renewal fees in accordance with Neb. Rev. Stat. § 75-305. In its Order, the Commission levied an administrative penalty against Denver Coach, Inc., ("Denver Coach"), Scottsbluff, in the amount of Three-Thousand Eight-Hundred dollars (\$3,800) and ordered Denver Coach to cease and desist all services.<sup>1</sup>

On November 4, 2020, the Commission ordered Denver Coach to show cause as to why its Certificate of Public Convenience and Necessity should not be revoked for failure to timely remit annual renewal fees in accordance with Neb. Rev. Stat. § 75-305(1).<sup>2</sup>

A show cause hearing was held on November 16, 2020, in the Commission Hearing Room and simultaneously via electronical means

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<sup>1</sup> See Docket MCC-3196.02 *Jamie l. Reyes, Director, Motor Transportation Department, Nebraska Public Service Commission, Lincoln, Nebraska COMPLAINT 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 Moving & Storage of Omaha, 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; 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 Limousines; and The Wine Bus, LLC, RESPONDENTS, Order Dismissing in Part and Sustaining in Part (Entered June 30, 2020).*

<sup>2</sup> See Docket B-1343 *In the Matter of the Nebraska Public Service Commission, on its own motion, to Denver Coach, Inc., Scottsbluff, to show cause why the Commission should not revoke its Certificate of Public Convenience and Necessity, Order to Show Cause and Schedule Hearing (Entered November 4, 2020).*

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in accordance with the local public safety guidelines issued as a result of the COVID-19 pandemic. Notice of the Hearing was published in The Daily Record on November 6, 2020. Ms. Jamie Reyes and Mr. Dillon Keiffer-Johnson appeared on behalf of Commission Staff. No one appeared on behalf of Denver Coach.

### E V I D E N C E

Ms. Jamie Reyes, Director of the Motor Transportation Department, began by describing the authority held by Denver Coach. She explained Denver Coach provides transportation services between Scottsbluff and Gering to Denver as well as transport intrastate within the counties that make up that area. She further noted that Denver Coach has both special party and charter bus designation as well as a limousine service, but lately their primary operations have been as a bus shuttle service.<sup>3</sup>

Ms. Reyes then testified to the Department's extensive outreach efforts to contact Denver Coach as it relates to the annual renewal complaint. She noted that on June 30, 2020, the complaint against Denver Coach was sustained and a fine of Three-Thousand Eight-Hundred dollars (\$3,800) was assessed for failure to pay its annual renewal fees as required by Neb. Rev. Stat. § 75-305.<sup>4</sup> Ms. Reyes explained that the annual renewal for Denver Coach's two vehicles would have been One-Hundred dollars (\$100) total.<sup>5</sup>

Ms. Reyes noted both formal and informal outreach efforts to contact the owner of Denver Coach, Wally Schlager, have gone mostly unanswered.<sup>6</sup> She noted that the department decided to send out its investigative staff in order to ascertain the status of the operations of Denver Coach. However, investigate staff did not observe any activity by the company while in the area. Ms. Reyes further noted the investigative staff's inability to locate the company nor speak to Mr. Schlager in person.<sup>7</sup> As a result, in an attempt to effectuate service and notice of this proceeding, commission staff published notice in The Daily Record as well as enlisted the assistance of the Scotts Bluff County Sheriff's Department for assistance with personal service. Ms. Reyes stated that on the morning of the hearing the Scotts Bluff County Sheriff's Department notified the Commission that they were also

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<sup>3</sup> Hrg. Transcr. 8:23 - 9:11 (November 16, 2020).

<sup>4</sup> *Id.* at 9:12 - 9:21.

<sup>5</sup> *Id.* at 9:22 - 9:25.

<sup>6</sup> *Id.* at 10:1 - 10:8.

<sup>7</sup> *Id.* at 10:9 - 10:13.

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unable to locate Mr. Schlager and could not effectuate personal service.<sup>8</sup>

Ms. Reyes testified that the department has also confirmed that the insurance policy that was on file for Denver Coach is no longer in force. Ms. Reyes reiterated that failure to maintain valid insurance on file with the Commission is also a violation of Neb. Rev. Stat. §75-307.<sup>9</sup>

Ms. Reyes stated that in a previous conversation with Mr. Schlager regarding the annual renewal complaint, he indicated that he was considering no longer continuing this business, but at the time of that conversation a decision had yet to be made.<sup>10</sup> Ms. Reyes detailed that every indication points to a strong likelihood that Denver Coach is no longer in operations and that the company failed to cancel its authority on its own. As such, Ms. Reyes recommended that since the carrier made no affirmative steps to cancel its certificate or bring the certificate into compliance, the certificate for Denver Coach be revoked.<sup>11</sup>

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

Denver Coach, Inc., is a common carrier regulated by the Commission pursuant to Neb. Rev. Stat. §§ 75-101 et. Seq. (2018), § 75-301 et. Seq. (2018), and Title 291, NAC Ch.3 of Commission Rules and Regulations.

Neb. Rev. Stat. § 75-315 states that certificates may be revoked after notice and hearing for willful failure to comply with Nebraska statutes governing the Commission, any Commission rule or regulation, or any term, condition, or limitation of the certificate. Neb. Rev. Stat. § 75-305(1) requires all regulated motor carriers to pay an annual fee not exceeding eighty dollars (\$80) for each motor vehicle operated. Annual fees are due and payable to the Commission on or before January 1 and are delinquent March 1. Additionally, Commission Rule 004.02 requires all motor carriers to pay annual per-vehicle fees to the Commission each January in order to receive vehicle identification cards for each vehicle registered with the Commission. All regulated motor carriers must also comply with Commission Rule 006.01 and 006.05, which requires carriers to hold current motor carrier insurance

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<sup>8</sup> *Id.* at 10:14 - 10:25.

<sup>9</sup> *Id.* at 11:1 - 11:6.

<sup>10</sup> *Id.* at 11:9 - 11:14.

<sup>11</sup> *Id.* at 11:15 - 11:25.

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with minimum amounts of coverage and to ensure the Commission has certain filings reflecting such coverage, respectively.

Denver Coach has been wholly unresponsive to any and all Commission outreach efforts regarding its responsibilities pursuant to the Commission's June 30, 2020 Order. Numerous attempts were made to contact Denver Coach prior to the entry of the November 4, 2020 Order to Show Cause. Commission staff attempted contact via all possible means including via telephone, email, mail, and even in person, without success. Furthermore, no representative for Denver Coach appeared at the November 16, 2020 hearing to show cause as to why its Certificate of Public Convenience and Necessity should not be revoked. In addition, Denver Coach has not had current insurance on file with the Commission for some time. Evidence presented at the hearing indicate that the carrier is no longer in business; however, the carrier took no formal action to voluntarily cancel its Certificate with the Commission.

In consideration of the evidence presented and staff recommendation, the Commission finds that the authority granted to Denver Coach, Inc., in Application B-1343 should be revoked. Any transportation that may currently be provided by Denver Coach must cease. Any vehicle plates which have been assigned by the Commission must be returned to the Commission within ten (10) days of the effective date of this Order.

### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Certificate of Public Convenience and Necessity granted to Denver Coach, Inc., Scottsbluff, in Application B-1343 be, and is hereby, revoked.

IT IS FURTHER ORDERED that the carrier revoked herein shall cease and desist providing service in the State of Nebraska as of the effective date of this Order. Any vehicle plates which have been assigned by the Commission must be returned to the Commission within ten (10) days of the effective date of this Order.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 8<sup>th</sup> day of December, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

  
Chair

ATTEST:

  
Executive Director