

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Dillon T. Keiffer-Johnson,)	Docket No. MCC-3196.04
Director, Motor Transportation)	
Department, Nebraska Public)	
Service Commission, Lincoln,)	
Nebraska)	
)	
COMPLAINANT,)	
)	
vs.)	
)	
9 Line Medical Solutions, LLC;)	ORDER DISMISSING, IN PART,
Big A Holdings d/b/a OMALiNK;)	AND SUSTAINING, IN PART
Black Diamond S & S; Christopher)	
M. Beerbohm; Davis Entertainment)	
d/b/a Ollie The Trolley;)	
Executive Coach, LLC; Kearney)	
Cab Company; Lunjini Medical)	
Transportation, LLC; Ronald D)	
Allgood d/b/a Tree City Cab;)	
Serving Nebraska Health)	
Transportation; The Happy Bus,)	
LLC; and Thomas Transportation)	
)	
RESPONDENTS.)	ENTERED: May 24, 2022

BY THE COMMISSION:

On March 1, 2022, the 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. 2020). Complainant alleges that Respondents failed to timely file annual fees as required by § 75-305 by March 1, 2022. Complainant seeks an order revoking Respondents' Certificates of Public Convenience and Necessity or Permits of Authority and to require Respondents to cease and desist 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 March 1, 2022, the Commission entered an Order to Show Cause and scheduled the matter for hearing. Notice of the hearing was published in The Daily Record, Omaha, Nebraska, on March 3, 2022. Notice of the hearing was also sent to all Respondents via certified U.S. Mail, return receipt requested.

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On March 29, 2022, and April 12, 2022, the Commission entered two separate Orders dismissing the following Respondents from the Complaint: 9 Line Medical Solutions, LLC; Big A Holdings d/b/a OMALiNK; Black Diamond S&S; Lunjini Medical Transportation, LLC; Ronald D. Allgood d/b/a Tree City Cab; Davis Entertainment d/b/a Ollie The Trolley; Executive Coach, LLC; and Thomas Transportation.

Hearing on this matter was held on April 12, 2022, via WebEx video conference. Mr. Jonathan Smith and Mr. Dillon Keiffer-Johnson appeared on behalf of Commission staff. No appearances were made on behalf of any named Respondent.

E V I D E N C E

Mr. Dillon Keiffer-Johnson, Transportation Department Director, provided a statement to the Commission regarding the status of remaining Respondents and the Department's recommendations.

First, Mr. Keiffer-Johnson outlined the background of the above-captioned complaint describing the Department's notification process and the statutory requirements related to the Department's annual renewal compliance policy.¹ Mr. Keiffer-Johnson continued his testimony by stating that when the complaint was opened, there were 12 named respondents, but as of the date of the hearing, four carriers remained.

Next, Mr. Keiffer-Johnson discussed the remaining four carriers, beginning with Authority B-1402 Kearney Cab Company.² He stated that Kearney Cab Company remitted its annual renewal fee and confirmation of its vehicle fleet on March 3, 2022. However, Kearney Cab Company's annual renewal compliance was not completed until March 25, 2022 when the Department received proof of their current insurance. The carrier accrued an administrative fine of \$30 pursuant to the department's fee schedule associated with the docket. The Department recommended the Commission assess the \$30 fine.³

Next, Mr. Keiffer-Johnson discussed Authority B-1995 Serving Nebraska Health Transportation. Mr. Keiffer-Johnson stated that Respondent completed all annual renewal requirements on March 24,

¹ Hrg. Trans. 10:15-12:14 (April 12, 2022).

² Id. at 12:15-13:5.

³ Id. at 13:5-14:4.

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2022. Respondent accrued a \$240 fine and filed a request with the Department to waive payment of the fine.⁴ Mr. Keiffer-Johnson recommended that the Commission accept Serving Nebraska Health Transportation's request to waive the accrued fine and dismiss them from the Complaint.⁵ Later responding to questions regarding Serving Nebraska Health's waiver request, Mr. Keiffer-Johnson confirmed that the Respondent did in fact submit a written waiver request which was accepted by the Department. Mr. Keiffer-Johnson went on to clarify that a stipulated agreement was also received by the Department, but was not in a form that the Department could accept.⁶

Next, Mr. Keiffer-Johnson discussed Authority B-1899 The Happy Bus, LLC. Mr. Keiffer-Johnson informed the Commission that Respondent was in contact with staff and indicated that they are no longer operating.⁷ The Department received a notarized cancellation application on April 11, 2022, and therefore recommended the Commission dismiss The Happy Bus, LLC from the complaint and process the cancellation application in the carrier's individual docket pursuant to the standard departmental cancellation procedures.⁸

Finally, Mr. Keiffer-Johnson discussed Authority B-1936 Christopher M. BeerBohm. Christopher M. BeerBohm was the only carrier who did not make an attempt to contact Commission staff regarding the Complaint. Mr. Keiffer-Johnson noted that the Department attempted several different avenues of communication to reach the carrier, including multiple phone calls, emails, and certified mail attempts. In particular, the Department attempted the delivery of certified mail on four separate occasions, all of which were returned as either refused or undeliverable.⁹ Mr. Keiffer-Johnson therefore recommended the Commission assess an administrative penalty in the maximum amount pursuant to the fine schedule of \$1,600 and revoke the Certificate of Authority for Christopher M. BeerBohm.¹⁰ Discussing the interpretation of the term "refused mail," Mr. Keiffer-Johnson stated that his understanding of the term is the label the post office uses when

⁴ Id. at 14:5-17.

⁵ Id. at 15:15-24.

⁶ Id. at 23:4-24:7.

⁷ Id. at 15:25-16:7

⁸ Id. at 16:16-24.

⁹ Id. at 17:5-20:1.

¹⁰ Id. at 20:22-21:1

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describing mail that was presented to the recipient but not accepted.¹¹

Exhibits one through eight were entered and received into evidence. The hearing concluded with no additional entries of appearance besides Commission staff.

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 Chapter 3 of Commission Rules and Regulations.

Neb. Rev. Stat. § 75-305(1)-(2) requires all regulated motor carriers to pay an annual fee 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 1.¹²

The Commission 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. As of the hearing date, all but four Respondents were dismissed by Commission Order. The Commission's findings regarding the remaining four Respondents are detailed below.

Kearney Cab Company

Kearney Cab Company, Scottsbluff, completed its annual renewal compliance on March 25, 2022 when the Department received proof of its current insurance. Evidence shows its annual renewal fee and confirmation of its vehicle fleet were received on March 3, 2022. As such, the carrier accrued an administrative fine of \$30 pursuant to the department's fee schedule associated with this docket.

On April 28, 2022, sixteen (16) days after the closure of the hearing, the Department received a \$30 check from Kearney Cab Company. This check was accepted by the Department as payment for the administrative fine. Therefore, the Commission finds that Kearney Cab Company shall be dismissed from this complaint.

¹¹ Id. at 23:10-25

¹² Neb. Rev. Stat. § 75-305(Supp. 2015).

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Serving Nebraska Health Transportation

Serving Nebraska Health Transportation, Omaha, complied with all requirements to bring its Certificate into good standing prior to the hearing. Evidence shows the carrier completed all annual renewal requirements on March 24, 2022. The carrier accrued a two hundred and forty dollar (\$240) fine, however, the carrier was eligible to request a one-time waiver, which it requested on March 30, 2022.

The Commission finds that Serving Nebraska Health Transportation's request for a one-time waiver of fine shall be granted. As such, the Commission finds that Serving Nebraska Health Transportation, Omaha, should be dismissed from the Complaint. Serving Nebraska Health Transportation is on notice that failure to remit future annual fee payments on time may result in Commission action.

The Happy Bus, LLC

The Happy Bus, LLC, Alma, voluntarily canceled its Certificates of Public Convenience and Necessity and filed a revocation application on April 11, 2022. Therefore, the Commission finds that the Complaint as to The Happy Bus, LLC should be dismissed. The revocation application shall be processed in a separate docket.

Christopher M. Beerbohm

Christopher M. Beerbohm, Fremont, has not submitted any portion of its required annual renewal compliance and all attempts to contact the carrier have been unsuccessful. The Commission finds that the Complaint against Christopher M. Beerbohm should be sustained.

Based on the above, the Commission finds that the Certificates of Public Convenience and Necessity issued for Christopher M. Beerbohm shall be revoked. Christopher M. Beerbohm must cease and desist providing for-hire intrastate transportation services in the state of Nebraska as of the effective date of this Order. All assigned Commission plates 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 one thousand six hundred dollars (\$1,600) shall be

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assessed. Commission Rule of Procedure 007.06B requires any penalty assessed be paid within thirty (30) days from the date the Order is mailed. Failure to pay the penalty may result in the matter being referred to the Nebraska Attorney General's Office for collection through the District Court of Lancaster County. No subsequent applications for authority will be allowed until the penalty is satisfied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Kearney Cab Company; Serving Nebraska Health Transportation; and The Happy Bus, LLC, be, and are hereby, dismissed from the Complaint as provided herein.

IT IS FURTHER ORDERED that the Complaint against Christopher M. Beerbohm, Fremont, be, and is hereby, sustained and that Christopher M. Beerbohm be assessed a civil penalty of one thousand six hundred dollars (\$1,600) and its Certificate of Public Convenience and Necessity be, and is hereby, revoked.

IT IS FURTHER ORDERED that all civil penalties assessed in this Order must be paid within thirty (30) days from the mailing of this Order. Failure to pay or request waiver of this penalty within thirty (30) days from the mailing of this Order may result in further Commission action and/or the matter being referred to the Nebraska Attorney General's office for collection through the District Court of Lancaster County.

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

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 24th day of May, 2022.

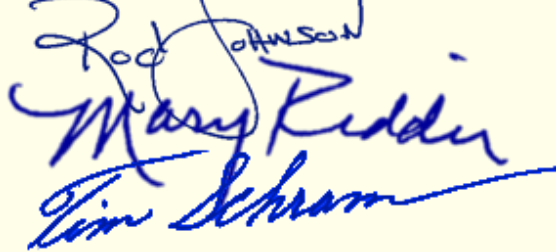
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COMMISSIONERS CONCURRING:



Chair

ATTEST:


Executive Director