

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Dillon	)	Docket No. MCC-3199
Keiffer-Johnson, Director of	)	
the Motor Transportation	)	
Department of the Nebraska	)	
Public Service Commission,	)	
	)	
Complainant,	)	ORDER SUSTAINING COMPLAINT
	)	
v.	)	
	)	
Confidant Movers, LLC,	)	
Aventura, Florida,	)	
	)	
Respondent.	)	Entered: February 22, 2023

BY THE COMMISSION:

On July 27, 2022, the Director of the Motor Transportation Department ("Complainant") of the Nebraska Public Service Commission ("Commission") filed a motor carrier complaint against Confidant Movers, LLC ("Confidant" or "Respondent"), Aventura, Florida, alleging violations of Neb. Rev. Stat. §§ 75-304.03 and 75-307 and Neb. Admin. Code, Title 291, Ch. 3 §§ 003.03A, 006.01 and 006.4 by providing intrastate household moving services without a license.

On September 7, 2022, the Commission entered an Order to Show Cause and schedule hearing. Notice of the hearing was sent to the Respondent via certified U.S. Mail, return receipt requested. Hearing on this matter was held on October 5, 2022. Mr. Matulka appeared on behalf of Commission staff. No appearances were made on behalf of the Respondent.

EVIDENCE

Testimony

Mr. Dillon Keiffer-Johnson, Director of the Motor Transportation Department ("Department") of the Nebraska Public Service Commission, testified on behalf of the department.<sup>1</sup> Mr. Keiffer-Johnson confirmed that Confidant Movers, LLC ("Confidant") were the Respondents in this matter and that he believed the owner

<sup>1</sup> Hearing Tr. at 8:12-8:21

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operator of the business to be a man by the name of Yuri.<sup>2</sup> At the time of the hearing, Director Keiffer-Johnson did not know the owner of Confidant's last name.<sup>3</sup> Director Keiffer-Johnson confirmed Confidant Movers are incorporated in Florida but are not incorporated in Nebraska.<sup>4</sup> Further, according to Director Keiffer-Johnson, Confidant is not registered as a household goods mover in Nebraska, nor does Confidant have a license to operate as a household goods mover.<sup>5</sup>

On or around July 5, 2022, the Department received an informal complaint, filed by a Jessica Irwin, regarding Confidant Movers potentially providing intrastate household goods moving services without a license.<sup>6</sup> According to Director Keiffer-Johnson, Confidant Movers was hired to complete a residential intrastate move from Omaha to Crawford, Nebraska.<sup>7</sup>

Director Keiffer-Johnson stated that when an informal complaint is received the Department assigns an investigator to follow up on that complaint.<sup>8</sup> Investigator Evans was assigned to this complaint.<sup>9</sup> According to Director Keiffer-Johnson's testimony, Investigator Evans contacted Ms. Irwin whom stated that she had first reached out to United Best Moving Services (Hereafter, "United Best"), a broker for household goods movers, and was connected with Confidant through United Best.<sup>10</sup> Confidant was assigned by United Best to handle Ms. Irwin's move from her home in Omaha, Nebraska to her new home in Crawford, Nebraska.<sup>11</sup> Mr. Keiffer-Johnson explained that Ms. Irwin informed the department that she was told by United Best that it would cost approximately \$3,010 for Confidant to complete the move.<sup>12</sup> Ms. Irwin paid a deposit that day of \$1,010 and a subsequent deposit of \$1,058.<sup>13</sup> She also paid Confidant an additional \$1,712.25 when

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<sup>2</sup> *Id.* at 9:11-9:14

<sup>3</sup> A review of the Department's records indicates that the owner's full name is Yuri Bobrovnikov.

<sup>4</sup> *Id.* at 10:7-10:10

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 10:15 -10:18

<sup>7</sup> *Id.* at 10:10-10:19

<sup>8</sup> *Id.* at 11:20-11:22

<sup>9</sup> *Id.* at 12:3-12:4

<sup>10</sup> *Id.* at 12:14-12:16

<sup>11</sup> *Id.* at 12:17-12:23

<sup>12</sup> *Id.* at 13:3

<sup>13</sup> *Id.* at 13:8-13:10

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the company arrived at her home the day of her move.<sup>14</sup> According to Director Keiffer-Johnson, this \$1,712.25 was an additional cost to what was originally quoted and was a surprise to Ms. Irwin when she was told she needed to pay it.<sup>15</sup>

Mr. Keiffer-Johnson explained that Ms. Irwin originally requested Confidant take her items to a storage location.<sup>16</sup> However, this storage location was never disclosed to Mr. Irwin.<sup>17</sup> According to the informal complaint filed by Ms. Irwin, her items remained in storage for approximately two weeks while the closing was completed on her new residence.<sup>18</sup> She contacted Confidant to remove her items from storage and bring them to her new residence.<sup>19</sup> Confidant demanded an additional \$3,068.65 be paid before they would start unloading her items<sup>20</sup>. Mr. Keiffer-Johnson explained that in her complaint, Mr. Irwin stated that she ended up paying approximately \$7,147.00 for the move, more than double the initial quote.<sup>21</sup> Director Keiffer-Johnson confirmed that Confidant does not have a license to operate as a household goods mover nor has it ever been licensed or certified.<sup>22</sup>

After the initial investigation, the Department filed a formal complaint, but Director Keiffer-Johnson stated no response to the Complaint was ever received from the Confidant.<sup>23</sup> Responding to questions regarding the effect of a party not responding to a complaint, Director Keiffer-Johnson stated that, it is his understanding that all the allegations contained in the complaint should be deemed admitted<sup>24</sup>

Director Keiffer-Johnson discussed the steps the department took to ensure Confidant received notice of the complaint. He stated that the department had several conversations with Confidant regarding the company's receipt of the complaint and subsequent show cause order.<sup>25</sup> Director Keiffer-Johnson explained

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<sup>14</sup> *Id.* at 13:13-13:14

<sup>15</sup> *Id.* at 13:21-13:24

<sup>16</sup> *Id.* at 14:9-14:12

<sup>17</sup> *Id.* at 14:13

<sup>18</sup> *Id.* at 14:14-14:16

<sup>19</sup> *Id.* at 14:17-20

<sup>20</sup> *Id.* at 14:21-14:24

<sup>21</sup> *Id.* at 14:25-15:9

<sup>22</sup> *Id.* at 15:15-15:20

<sup>23</sup> *Id.* at 15:24-16:3

<sup>24</sup> *Id.* at 16:10-16:21

<sup>25</sup> *Id.* at 18:3-19:14

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that Respondent mentioned uncertainty surrounding an appearance at the hearing, but Respondent was directed to make the appropriate filing to request a continuation of the hearing. Director Keiffer-Johnson confirmed that no such filing was ever received.<sup>26</sup> be requested in writing.<sup>27</sup> No written request was ever received.<sup>28</sup>

Director Keiffer-Johnson recommended that the Commission issue a fine in an amount equal to the amount of money Confidant collected from Ms. Irwin's move, or approximately \$7,147.00, for operating as an intrastate household goods mover without the proper license.<sup>29</sup>

## *Exhibits*

Exhibits one through four were entered into evidence.

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

Confidant Movers, LLC, is a household goods mover under the jurisdiction of the Nebraska Public Service Commission pursuant to Neb. Rev. Stat. §§ 75-101 et. seq., §§ 75-301 et. seq., and Title 291, NAC Ch. 3 of Commission Rules and Regulations.

The Commission has jurisdiction over motor carrier registration, licensure, and safety in the state of Nebraska.<sup>30</sup> A motor carrier is any person other than a regulated motor carrier who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers or property over any public highway in this state.<sup>31</sup> Pursuant to Neb. Rev. Stat. § 75-304.03(1) any mover of household goods operating in the state of Nebraska and engaged in the intrastate transportation for hire of household goods shall apply to the commission for a license prior to transporting household goods in intrastate commerce.<sup>32</sup> Further, Neb. Rev. Stat. § 75-307(1) states that all licensees under Neb. Rev. Stat. § 75-304.03 must comply with Commission rules regarding required insurance policy filings.<sup>33</sup> Commission rules and regulations require all motor carriers to have minimum liability

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<sup>26</sup> *Id.* at 19:19-20:2

<sup>27</sup> *Id.* at 19:23-20:2

<sup>28</sup> *Id.* at 20:2

<sup>29</sup> *Id.* at 20:6-20:14

<sup>30</sup> Neb. Rev. Stat. § 75-109.01

<sup>31</sup> Neb. Rev. Stat. § 75-302(14)

<sup>32</sup> Neb. Rev. Stat. § 75-304.03(1).

<sup>33</sup> Neb. Rev. Stat. § 75-307(1).

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insurance coverage as required by § 003.03.<sup>34</sup> Additionally, Title 291 N.A.C. Chapter 1, Rule 004.03B2 states that failure to file an answer to a Complaint within twenty (20) days of service will be construed as an admission of the allegations in the complaint except for good cause shown.

Respondent violated § 75-304.03 and § 75-307 when it operated without an active license issued by this Commission. According to testimony received at the hearing, Respondent completed an intrastate move from Omaha, Nebraska to Crawford, Nebraska for a total price of \$7,147.00. At the time of this move, Respondent did not have an active license to transport household goods within Nebraska. Furthermore, Respondent failed to file an answer in this proceeding and therefore all allegations in the Complaint are deemed admitted.

Commission staff testified that numerous conversations were held with Respondent discussing the complaint and subsequent hearing. Exhibit 4 was entered into the record as evidence of receipt of the filed complaint signed by Respondent. This indicates that Respondent either willfully disregarded or ignored the filed complaint and the need to respond or appear at the hearing.

Pursuant to Neb. Rev. Stat. § 75-156, the Commission may, upon finding that a violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any person for each violation.

Based on the evidence presented, the Commission finds that the complaint against Confidant Movers, LLC, Aventura, Florida, should be sustained. Confidant clearly and willfully violated § 75-304.03 and Commission rules and regulations by operating without a licensed to transport household goods within Nebraska. As such, Confidant Movers, LLC, should be assessed a civil penalty. When determining the amount of a civil penalty, the Commission considers the appropriates of the penalty in light of the gravity of the violation and the good faith of the violator to achieve compliance after notification of the violation.<sup>35</sup> We previously noted the unresponsiveness of Respondent to this Complaint and its allegations, and Respondent's failure to appear at the hearing after being provided notice by personal service. Operating without an active license is a serious matter, as the license provides assurance to the public that the carrier is in good standing with

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<sup>34</sup> Neb. Admin. Code, Title 291, Ch. 3 § 006.01.

<sup>35</sup> See Title 291 N.A.C. Ch. 1 §§ 007.02C1 and 007.02C2.

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insurance and other safety regulations. Respondent willingly and knowingly operated outside of Commission authority.

After review of the evidence before us, the Commission finds that a civil penalty in the amount of seven-thousand one-hundred and forty-seven dollars (\$7,147) shall be assessed against the Respondent. 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 further Commission action. The matter may also be referred to the Attorney General's Office for Collection through the District Court of Lancaster County.

## O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Order to Show Cause against Confidant Movers, LLC, Aventura, Florida, be, and is hereby, sustained.

IT IS FURTHER ORDERED that the allegations made by the Department in their Complaint against Confidant Movers, LLC, Aventura, Florida, be, and are hereby, deemed admitted by the Respondent.

IT IS FURTHER ORDERED that Confidant Movers, LLC, Aventura, Florida, shall cease and desist providing service in the state of Nebraska as of the effective date of this Order.

IT IS FINALLY ORDERED that civil penalties in the amount of \$7,147 be assessed to Confidant Movers, LLC, Aventura, Florida. Failure to pay this penalty 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.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 22nd day of February 2023.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

  
Eric M. Hamler



  
Tim Schram

  
Kevin Stocker



Chair

ATTEST:

  
Thomas W. Golden  
Executive Director