

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) APPLICATION NO. B-1685  
of James and Rhonda Joneson dba )  
Leisure Limousine Service, )  
Lincoln, Nebraska, seeking ) GRANTED AND CERTIFICATE  
acquire, through transfer, the ) B-1599 REVOKED  
certificate held by A & R )  
Klassic Cars Limousine Service, )  
L.L.C., in Certificate B-1599. ) ENTERED: FEBRUARY 27, 2007

APPEARANCES:

For the Commission Staff:

Mark Breiner  
300 The Atrium  
1200 N Street  
P.O. Box 94927  
Lincoln, NE 68509

BY THE COMMISSION:

B A C K G R O U N D

By application filed March 30, 2006, James E. and Rhonda Joneson d/b/a Leisure Limousine and Sedan Service, L.L.C., Lincoln, Nebraska seeks to acquire through transfer the held by A & R Klassic Kars Limousine Service, L.L.C., Omaha, Nebraska, in Certificate No. B-1599. Notice of the application was published in The Daily Record, Omaha, Nebraska, on April 11, 2006. A timely protest to the application was filed by Joseph A. Higgins d/b/a SDG Transportation, Inc.

The protestant filed an action against Karla Archer and A & R Klassic Kars (transferor) in the District Court of Douglas County, Nebraska, and a temporary restraining order enjoining the transferor from taking any future action to transfer the certificate was ordered on July 7, 2006. On September 27, 2006, the Commission was notified by the transferor that its objection to the transfer application of the protestant in docket number B-1690 could proceed.

In November of 2006, this application and the application in B-1690 were scheduled to be heard on January 18, 2007. A Motion to Continue was filed by the protestant, which was granted and the matters were rescheduled to February 7, 2007. A

APPLICATION NO. B-1685

PAGE TWO

second motion to continue these matters was filed by the protestant on February 5, 2007. That motion was denied.

A hearing on the application was held on February 7, 2007, with appearances listed above. Notice of the hearing was sent to all interested parties on January 21, 2007.

E V I D E N C E

**APPLICANT'S EVIDENCE**

The witness called by the applicant was James Joneson, co-owner of Leisure Limousine Service, L.L.C. Mr. Joneson is the co-owner of the applicant along with his wife, Rhonda Joneson.

Mr. Joneson testified that he and his wife reside in Lincoln. He gave some background information regarding the circumstances of the purchase of the certificate held by A & R Klassic Kars from Karla Archer. Mr. Joneson detailed correspondence that occurred between the various parties to the sale and also Joseph Higgins, as well as the litigation that involved the certificate in issue here.

Mr. Joneson informed the Commission that he has been operating his limousines under a contract with another limousine provider since July of 2006. They have been busy but not as busy as he anticipates they will be under his authority as he received the runs the primary provider could not provide for.

Mr. Joneson testified that he has purchased two limousines for use in his operations. One is a 2001 ten passenger Lincoln Town car, and the other is a 2006 Chrysler 300. He informed the Commission that he had two full-time employees (himself and his wife) and a part-time driver. A safety officer is also employed who is a licensed mechanic and inspects the vehicles every 5,000 miles.

Mr. Joneson testified that they have been an L.L.C. for some time, that all tax and other numbers have been applied for and received, and that insurance is in place.

Mr. Joneson testified as to his background. He submitted a copy of his driving record which showed that there were no tickets on the record. He also submitted a State Patrol record search which showed no criminal incidents. Mr. Joneson stated that he is a Vietnam vet, a graduate of Kearney State College, and is a graduate of the FBI Academy. His employment history included 16 years in the Dawson County Sheriff's Office, 3 years as the Chief of Police for Lexington, Nebraska, 6½ years as the

# SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

APPLICATION NO. B-1685

PAGE THREE

Director of the Law Enforcement Commission for the state of Nebraska, and 13 years as a part-time enforcement officer for the City of Ceresco, Nebraska.

Mr. Joneson did submit a financial statement with the Commission. He stated that he, like many people, does have some cash flow problems but that he does have a positive net worth.

## **Protestant's Evidence**

Joseph A. Higgins testified as the protestant. He stated that he had requested a continuance of the hearing on the grounds that he had lack of notice of the hearing, is ill and under treatment and has not had time to adequately prepare for this hearing nor hire legal counsel. He then addressed his issue regarding the fitness of the applicant. He stated that he had no problem with Mr. Joneson as an operator of a limousine company in Nebraska.

Mr. Higgins stated that his main objection to the application is that he had a contract with Karla Archer of A & R Klassic Kars prior to that of Mr. Joneson's. He stated that he had paid some money to Ms. Archer and had assumed the payment of some bills on her behalf. He has an advertisement in the Yellow Pages as the time to place such ads would have passed before the outcome of the instant proceeding. He stated that he did get a temporary restraining order against Ms. Archer's transference of the certificate, and that as part of an out-of-court settlement she agreed to drop her objection to the transfer of the certificate to Mr. Higgins.

Mr. Higgins stated that if there is any issue with Mr. Joneson's fitness it lies with Mr. Joneson's pursuit of the certificate under the circumstance of the agreement between Ms. Archer and Mr. Higgins. He stated that he believed that Mr. Joneson knew that a contract for the sale of the authority had been entered into between Mr. Higgins and Ms. Archer and still proceeded to purchase the authority. Mr. Higgins also stated that he intended to pursue legal action if he is not granted transfer of the authority.

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

In this particular case, the Applicant is seeking to transfer of an authority. Transfers are governed by Neb. Rev. Stat. Sec. 75-318. It states that an application must be filed, notification to other carriers must be made, and the Commission must find after a hearing that the proposed transaction is consistent with the public interest and does not unduly restrict

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

APPLICATION NO. B-1685

PAGE FOUR

competition and that the applicant is fit, willing and able to properly perform the proposed service.

The evidence before the Commission shows that the applicant, Mr. Joneson, is fit, willing and able to perform the services proposed. He illustrated financial stability and a background that allows the Commission to find that he is fit.

Mr. Higgins alleged that he has a superior right to the authority due to his contract for the purchase of the certificate being in time before the applicant's purchase contract. The Commission did have a hearing on Mr. Higgins application for the transfer here in docket number B-1690. In that order, the Commission found that Mr. Higgins did not pass the test set forth above regarding fitness and denied his transfer application.

The Commission finds that the certificate should be transferred to the applicant in this matter as the applicant has shown fitness, willingness and ability to operate the proposed transaction and that the public interest is best served by the transfer and that it will not unduly restrict competition to do so.

From the evidence adduced and being fully informed in the premises, the Commission is of the opinion and finds that the application for transfer to the applicant in this case should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1685, be, and it is hereby, granted; and that upon compliance with the terms and conditions set forth in this Order, a Certificate of Public Convenience and Necessity shall be issued to James E. & Rhonda Joneson dba Leisure Limousine & Sedan Service, Lincoln, Nebraska, in Application B-1685, authorizing the operations set forth in the foregoing findings; and that to avoid a lapse of authority, the Certificate of Public Convenience and Necessity issued in Application B-1599, shall be revoked and cancelled simultaneously with the issuance of a Certificate of Public Convenience and Necessity in Application B-1685.

IT IS FURTHER ORDERED that applicant shall not be issued the Certificate of Public Convenience and Necessity authorized by the Commission unless and until applicant has fully complied, within a reasonable time from the effective date of this Order, with Neb. Rev. Stat. sections 75-305 (fees), 75-307 (insurance),

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

APPLICATION NO. B-1685

PAGE FIVE

and 75-308 (rates)(Reissue 2003), and with the rules and regulations of the Commission, and if upon expiration of such time applicant has not complied with such terms and conditions, this Order shall, after reasonable notice to applicant, be of no further force and effect.

IT IS FURTHER ORDERED that applicant shall not conduct operations until a Certificate of Public Convenience and Necessity is issued.


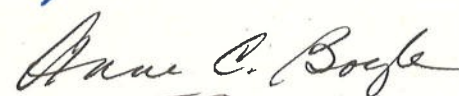

IT IS FURTHER ORDERED that the operations authorized herein shall be subject to the terms, conditions, and limitations which have been, or may hereafter be prescribed by the Commission.

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1685, be, and it is hereby, granted.

MADE AND ENTERED at Lincoln, Nebraska, this 27<sup>th</sup> day of February, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman



ATTEST:



Executive Director

//s// Rod Johnson

//s// Frank E. Landis