

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Jamie L. Reyes, Director,	)	Application No. MCC-3193/
Motor Transportation	)	B-1743
Department, Nebraska Public	)	
Service Commission, Lincoln,	)	
Nebraska,	)	
	)	
Complainant,	)	ORDER SUSTAINING COMPLAINT
vs.	)	
	)	
Terry L. Blakey Enterprise,	)	
LLC, d/b/a Goodwill Medical	)	
Transportation, Omaha,	)	
Nebraska,	)	Entered: September 19, 2017

Respondent.

BY THE COMMISSION:

On May 18, 2017, the Motor Transportation Department (Department) received an insurance Form K notifying the Department insurance for Terry Blakey Enterprises, dba Goodwill Medical Transportation, Omaha, would lapse on June 21, 2017. The department attempted to contact Mr. Blakey to notify him such notice had been received. The department received no response from Mr. Blakey. On June 21, 2017, the insurance coverage did lapse.

On July 11, 2017, the Commission ordered Mr. Blakey to show cause as to why his Certificate of Public Convenience and Necessity issued under Application No. B-1743 should not be revoked for failure to keep a current Form E insurance filing on file with the Commission. A copy of this complaint was sent via certified mail to Mr. Blakey's place of business. It was returned as undeliverable in early August. Bob Harrison provided personal service on Mr. Blakey August 11. The Department sent a settlement offer to Mr. Blakey on August 16. No response was received. Mr. Blakey contacted Director Reyes on the morning of the hearing and requested a continuance. That request was denied by the Hearing Officer.

On September 6, 2017, a show cause hearing was held in the Commission Hearing Room in Lincoln, Nebraska. Ms. Jamie Reyes and Ms. Ellie Rohr appeared on behalf of Commission staff. No appearance was made on behalf of Mr. Blakey and Terry Blakey

Enterprises, LLC. Exhibits 1 through 4 were received into evidence.

# E V I D E N C E

Ms. Rohr confirmed Mr. Blakey's insurance has, in fact, lapsed as of June 21, 2017. The fine outlined in the settlement offer would be \$5000.00 as of the date of hearing. Ms. Reyes stated no evidence has arisen that would indicate Mr. Blakey has been operating without insurance. Health and Human Services was notified of the pending complaint to ensure they would not assign rides to Mr. Blakey's service. Ms. Reyes stated Mr. Blakey has expressed a desire to sell the business in conversation with Bob Harrison when he contacted the department prior to the hearing. However, he has provided no information regarding any progress toward a sale.

Upon questioning from Commissioner Landis options available to Mr. Blakey, Ms. Rohr stated that Mr. Blakey could seek a suspension while he attempted to sell his business. However, that option was presented to Mr. Blakey by Mr. Harrison, and Mr. Blakey was not interested. Ms. Rohr informed the Commission Mr. Blakey has had several incidents over the past 2 years in which his insurance has lapsed. Ms. Reyes confirmed the reason this complaint was brought forth was that it had happened twice in a 30 day period in May/June 2017. Ms. Reyes outlined the options available to the Commission as follows: the Commission could order a suspension, modification of the certificate, revocation, or revocation and a fine. The Department recommends revocation and a fine to ensure that if the carrier were to apply again in the future, he would be required to pay that fine in order to be in good standing.

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

Terry Blakey Enterprises, LLC, is a common carrier regulated by the Commission pursuant to Neb. Rev. Stat. §§ 75-101 et. seq. and 75-301 et. seq. (2016 Cum. Supp.), and Title 291, Chapter 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. Section 75-307(1) requires certificated carriers to comply with Commission rules regarding insurance and file those

policies with the Commission. Commission Rule 006 sets forth the minimum insurance requirements for motor carriers transporting passengers for a fee in the state.

According to Rule 005.09A of the Commission Rules of Procedure, failure to file an Answer to a Complaint within twenty (20) days of service of the Complaint will be construed as an admission of the allegations in the Complaint except for good cause shown. The Personal Service return receipt, received as part of Exhibit 3, shows Mr. Blakey was served service of the Complaint. Additionally, Mr. Blakey never contacted the Commission, nor did he respond to attempts to contact him. Since Mr. Blakey failed to respond in any way to the allegations in the Complaint, the allegations detailed in the Complaint are deemed as admitted.

Evidence entered into the record shows that Terry Blakey Enterprises, LLC's insurance was cancelled June 21, 2017, as shown by the Form K Uniform Cancellation of Motor Carrier Insurance Policies entered into the record as Exhibit 2. Terry Blakey Enterprises, LLC, failed to update its insurance information after notification by the Department. No representative for Terry Blakey Enterprises appeared at the hearing to show cause as to why its Certificate of Public Convenience and Necessity should not be revoked. Although the Mr. Blakey indicated he is attempting to sell the business, no formal action was taken by the carrier to voluntarily cancel, suspend, or modify its Certificate with the Commission.

Based on the evidence presented, the Commission finds that the complaint against Terry Blakey Enterprises, LLC, d/b/a Goodwill Medical Transportation, Omaha, should be sustained. The Commission therefore finds that the Certificate of Public Convenience and Necessity issued to Terry Blakey Enterprises, LLC, d/b/a Goodwill Medical Transportation, Omaha, should be revoked for failure to comply with NEB. REV. STAT. § 75-307(1) and Commission Rule 006.

The Commission further finds Terry Blakey Enterprises, LLC, shall pay a fine of five-thousand dollars (\$5000.00). Commission Rule of Procedure 027.08B requires any penalty assessed be paid within 30 days from the date the Order is mailed. If the fine is not paid, no subsequent applications for authority will be allowed until the fine is satisfied and the carrier is returned to good standing.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Motor Carrier Complaint No. MCC-3193 filed against Terry Blakey Enterprises, LLC, d/b/a Goodwill Medical Transportation be, and is hereby, sustained.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity issued in Application No. B-1743 to Terry Blakey Enterprises, LLC, d/b/a Goodwill Medical Transportation, Omaha, be, and is hereby revoked.

IT IS FURTHER ORDERED that 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.

IT IS FINALLY ORDERED that Terry Blakey Enterprises, LLC, shall pay a fine of five-thousand dollars (\$5000.00) within thirty (30) days from the mailing of this Order. If the fine is not paid, no subsequent applications for authority will be allowed until the fine is satisfied and the carrier is returned to good standing.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 19<sup>th</sup> day of September, 2017.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Mary Keldu*

*Crystal L. Swader*

*Frank E. Landis*

//s//Frank E. Landis

//s//Tim Schram

*Tim Schram*

Chairman

ATTEST:

*Michael J. D.*

Executive Director