

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In re Robert R. Logsdon, Director)
of the Nebraska Public Service)
Commission Transportation)
Department,)

MOTOR CARRIER
COMPLAINT
MCC-3085

Complainant,)

vs.)

Saldi Express/ABX Enterprises, Inc.)
and Tony Saldi,)

Defendants.)

FILED

AUG 23 1993

EXECUTIVE DIRECTOR
NEBRASKA PUBLIC SERVICE
COMMISSION

COMES NOW Robert R. Logsdon, complainant in the above-captioned cause, pursuant to Neb. Rev. Stat. Section 75-322.02 (1990 Reissue), and for complaint against Saldi Express/ABX Enterprises, Inc. and Tony Saldi, defendants, alleges as follows:

1. Complainant is the Director of the Transportation Department of the Nebraska Public Service Commission (Commission) and is the custodian of the Commission's Motor Transportation Department documents and records.

2. Defendants, Saldi Express/ABX Enterprises, Inc. and Tony Saldi, operate as a motor carrier conducting for-hire intrastate carriage in the State of Nebraska. Examination of the Transportation Department's records and documents reveals that defendants do not have authority, either by certificate or permit, to conduct for-hire intrastate carriage in Nebraska. Defendants are not equipment leased to any regulated intrastate motor carrier with Commission authority. As of May 3, 1993, a single source lease was filed with the Commission between defendants as lessor, and McKesson Drug Company of LaVista, Nebraska, as lessee.

3. The defendants willfully violated the the Nebraska statutes and rules and regulations of the Commission by violating the Commission's leasing requirements and thereby operating in Nebraska intrastate commerce without the proper authority as follows:

(a) Transporting NAPA auto parts for the Genuine Parts Company of Omaha on or about June 22 to 26, 1992, at the rate of .675 dollars per day.

(b) Transporting NAPA auto parts for the Genuine Parts Company of Omaha on or about April 12 to 16, 1993, at the rate of .685 dollars per mile.

(c) Defendants double leased unit No. 250, a 1989 Isuzu, serial No. JALB4B1HXX7004045, to both Genuine Parts Company and McKesson Drug Company on or about June 23, 1993, in violation of the single source leasing rules.

(d) Defendants further double leased vehicles to both the Genuine Parts Company and the Sieg Auto Parts Company of Fort Dodge, Iowa, to transport both Sieg auto parts and NAPA auto parts on the same vehicles.

(e) Defendants failed to properly placard vehicles showing operation by McKesson Drug Company as lessee.

(f) Defendants failed to keep approved leases in the vehicle cabs during operation under the lease to McKesson Drug Company.

4. On August 13, 1992, Tony Saldi, representing Saldi Express/ABX Enterprises met with members of the Commission's Transportation Department and agreed to take the appropriate leasing measures to come into compliance with Commission regulations.

5. On April 13, 1993, during a telephone conference call with complainant and complainant's legal counsel, Tony Saldi again stated that he would file the necessary leases.

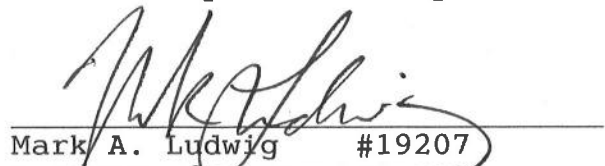
6. On April 29, 1993, no leases having yet been filed, Tony Saldi again met with members of the Commission Transportation Department, at which time he did file the leases with McKesson Drug Company and stated he would file the leases with Genuine Parts Company. Tony Saldi was informed during that meeting that he could not double lease the same vehicles to the same shipper lessees concurrently. The defendants never did comply with the Commission's rules and regulations and directives to file the appropriate leases with the Genuine Parts Company.

7. Defendants violations enumerated above were contrary to Neb. Rev. Stat. Sections 75-309 and 75-318, as amended, and Rule 008 of Chapter 3, Title 291, of the Commission's Motor Carrier Rules and Regulations.

WHEREFORE, complainant prays the Commission for an order levying a civil penalty against the defendants pursuant to Neb. Rev. Stat. Section 75-322.02, as amended, and Title 291, Chapter 1, Rule 027.02 of the Commission's rules in an amount not less than two thousand five hundred dollars (\$2,500.00) and any other order the Commission deems appropriate and which is within its jurisdiction to render, including, but not limited to, an order that the defendants cease and desist from further operating without authority in Nebraska intrastate commerce and contrary to the rules and regulations set forth by the Commission.

DATED this 20th day of August, 1993.


Robert R. Logsdon
Complainant
NPSC Transportation Department


Mark A. Ludwig #19207
Attorney for Complainant
P.O. Box 94927
Lincoln, NE 68509
(402) 471-3101

VERIFICATION

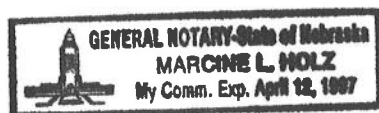
STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

Robert R. Logsdon, being first duly sworn on oath, deposes and says that he is the duly appointed and qualified Director of the Transportation Department of the Nebraska Public Service Commission; that he is the Complainant in the foregoing pleading; that he has read the allegations contained therein and understands them to be true to the best of his knowledge and belief.


Robert R. Logsdon, Complainant

Subscribed and sworn to before me this 20th day of August, 1993.

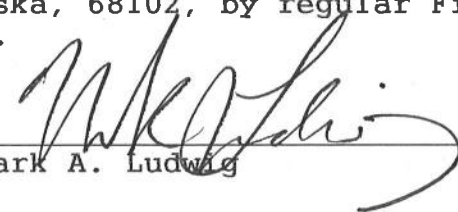
S E A L




Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing complaint was served on the defendant, Saldi Express/ABX Enterprises, Inc. and Tony Saldi, P.O. Box 34188, 7621 Glenvale Drive, Omaha, Nebraska, 68134, by certified mail, return receipt requested, and on defendant's attorney, Marshall D. Becker, 600 Professional Tower, 105 S. 17th St., Omaha, Nebraska, 68102, by regular First Class Mail, this 23rd day of August, 1993.


Mark A. Ludwig

NOTICE

1. Pursuant to Title 291, Ch. 1, Rule 027.03A(5), defendant is hereby notified that the Commission has set a hearing date for this complaint on September 27, 1993, at 9:30 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 "N" Street, Lincoln, Nebraska. Defendant is further notified that failure to file an answer to this complaint within twenty (20) days from the date of service will be construed as an admission of the allegations stated therein.
2. Failure by the defendant to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty as provided for by law, or (b) to proceed with the hearing and receive evidence of the alleged violation(s) and thereby assess civil penalties as provided for by law.
3. Upon failure to pay any civil penalty determined by the Commission, such civil penalty unpaid shall constitute a debt to the State of Nebraska and be collectible by civil action in the District Court of Lancaster County, Nebraska.