

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Mark J.)	APPLICATION NO. MCC-3160
Breiner, Director of the)	
Motor Transportation)	
Department of the Nebraska)	
Public Service Commission,)	
)	
Complainant)	ORDER
)	
v.)	
)	
Mike's Moving, Omaha)	
)	
Defendant.)	FILED: OCTOBER 30, 2007

BY THE COMMISSION:

This matter came before the Commission upon the filing of a motor carrier complaint against Mike's Moving, Omaha, filed June 7, 2007. Notice of hearing was sent to all parties of record on September 10, 2007, and a hearing was held on the matter on October 2, 2007.

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

The defendant in this matter, Mike's Moving, held authority as a household goods mover from 1996 until May 17, 2005, when it was revoked for failure to have proper insurance on file with the Commission. The defendant was fined \$1,000 for violations of Nebraska statutes 75-117 and 75-309. To date, the fine in the preceding matter has not been paid.

The complaint details two moves that occurred, one in 2006 and one in 2007. The 2006 move occurred in Omaha, and the 2007 move occurred in Blair, Nebraska. Both of these moves occurred well over one year after the entry of an order by the Commission that, among other items, ordered the defendant to cease and desist in moving operations.

By Commission rules, a defendant has 20 days from the date of service of the complaint to file an answer. Failure to file an answer constitutes an admission by the defendant to the allegations set forth in the complaint.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

MCC-3160

PAGE TWO

The defendant did not file an answer in this matter.

At the hearing held on October 2, 2007, the Commission took administrative notice of the complaint filing in this matter, as well as a letter sent in by Geoffrey Hall, legal counsel for the defendant.

The defendant is well aware of Commission rules and regulations and fully knows the requirements set out by the state. Its activity in this matter is again a blatant and willful disregard for Nebraska law and Commission requirements.

Upon review of the record and the rules of the Commission regarding the failure of the defendant to answer the complaint, the Commission finds that clear and convincing evidence supports the finding that defendant in this matter conducted household goods moving operation in the state of Nebraska without the authority being granted to it by the Commission, charged an amount for the two moves that is in violation of Nebraska statutes, and did so without the proper filings regarding annual fees due as well as insurance on file. The defendant knows of these requirements, yet has shown a willful disregard for the law.

In determining a civil assessment, the Commission must weigh the severity and gravity of the offense (Neb. Rev. Stat. §75-156). While these moves were not large moves, they no doubt represent a small fraction of the actual activity that the defendant has been conducting since our cease and desist order of 2005. When the moves are combined with the knowledge that the defendant has regarding Nebraska laws and Commission rules with the flagrant flouting of those laws and rules both past and present, the matter becomes very serious and must be dealt with harshly.

Upon consideration of these factors, the Commission finds the Defendant should be assessed a fine in the amount of Five Thousand dollars (\$5000.00). This amount is over and above the \$1,000 fine that the Commission levied in 2005 and which the defendant has not paid.

MCC-3160

PAGE THREE

O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that Motor Carrier Complaint No. 3160 filed against Mike's Moving, Inc., Omaha, Nebraska, be, and it is hereby, sustained.

IT IS FURTHER ORDERED that Mike's Moving, Inc., Omaha, be, and is hereby assessed a civil penalty in the amount of Five Thousand dollars (\$5,000.00) for operations set forth in the complaint herein and for failure to pay the \$1,000 levied in June of 2005.

IT IS FURTHER ORDERED that the defendant Mike's Moving, Inc., is hereby ordered to cease and desist and activities related to the movement of household goods in the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 30th day of October, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



//s// Rod Johnson

//s// Frank E. Landis

ATTEST:

Chairman



Executive Director