

NO. 28151

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

In the Matter of BANYAN BICYCLE TOURS
to Answer a Complaint and Summons Regarding
an Alleged Violation of the State Motor Carrier Law

APPEAL FROM THE PUBLIC UTILITIES COMMISSION
(Citation No. 0309)

ORDER DISMISSING APPEAL

(By: Burns, C.J., Watanabe and Lim JJ.)

Upon review of the record, it appears that we do not have jurisdiction over Appellant Banyan Bicycle Tours' appeal from Appellee Public Utilities Commission's (Appellee PUC) September 13, 2006 Citation Order No. 430 for two reasons: (1) the September 18, 2006 notice of appeal appears to be invalid, and (2) Appellant Banyan Bicycle Tours did not perfect its right to assert an appeal.

Michael P. Brandon (Michael Brandon) is not a party in this case. Nevertheless, it appears that Michael Brandon attempted to assert this appeal on behalf of Appellant Banyan Bicycle Tours because Michael Brandon signed Appellant Banyan Bicycle Tours' September 18, 2006 notice of appeal. However, Michael Brandon is not licensed to practice law in the State of Hawai'i. Under HRS § 605-2 (1993) and HRS § 605-14 (1993), persons who are not licensed to practice law in Hawai'i "are not

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permitted to act as attorneys and represent other natural persons in their causes." Oahu Plumbing and Sheet Metal, Ltd. v. Kona Construction, Inc., 60 Haw. 372, 377, 590 P.2d 570, 573 (1979) (citation and footnote omitted). "By the same token, non-attorney agents are not allowed to represent corporations in litigation, for a wholly unintended exception to the rules against unauthorized practice of law would otherwise result." Id. at 377, 590 P.2d at 574 (footnote omitted). Therefore, assuming that Appellant Banyan Bicycle Tours was an independent business entity such as a corporation, when Michael Brandon signed and filed Appellant Banyan Bicycle Tours' September 18, 2006 notice of appeal, Michael Brandon was not entitled to assert an appeal on behalf of Banyan Bicycle Tours. Therefore, Appellant Banyan Bicycle Tours' September 18, 2006 notice of appeal appears to be invalid.

More importantly, however, even if Appellant Banyan Bicycle Tours' September 18, 2006 notice of appeal were valid, we would still lack jurisdiction over this appeal, because Appellant Banyan Bicycle Tours failed to perfect its right to appeal. Under HRS § 271-32(e) (Supp. 2005) and HRS § 271-33 (Supp. 2005), a final order of Appellee Public Utilities Commission is appealable to the intermediate court of appeals. However, HRS § 271-32(e) and HRS § 271-33 require the aggrieved party to file a timely motion for reconsideration as a prerequisite to any appeal. Thus, there is no appealable order until the Appellee

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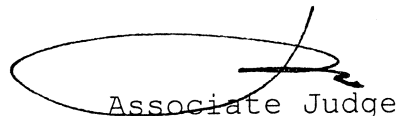
Public Utilities Commission resolves the aggrieved party's timely filed motion for reconsideration. In re Robert's Tours & Transportation, Inc., 104 Hawai'i 98, 104, 85 P.3d 623, 629 (2004). Appellant Banyan Bicycle Tours did not file a timely motion for reconsideration of the September 13, 2006 Citation Order No. 430, and, thus, Appellant Banyan Bicycle Tours failed to perfect its right to assert an appeal from the September 13, 2006 Citation Order No. 430. Therefore, we lack appellate jurisdiction over Appellant Banyan Bicycle Tours' appeal. Accordingly,

IT IS HEREBY ORDERED that appellate court case number 28151 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, December 8, 2006.

James A. Burns
Chief Judge

Corinne K. Watahake
Associate Judge


Associate Judge