

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9174

IN THE MATTER OF:

Served December 9, 2005

COMPREHENSIVE CARE II, INC.,) Case No. MP-2004-212
WMATC No. 374, Investigation of)
Compliance with Article XI,)
Section 14, of the Compact and)
Commission Regulation No. 61)

This matter is before the Commission on respondent's response to Order No. 8640, served April 7, 2005, which suspended Certificate No. 374 and gave respondent thirty days to show cause why the Commission should not revoke Certificate No. 374 and assess a civil forfeiture against respondent for knowingly and willfully violating Article XII, Section 1(b), of the Compact, Commission Regulation No. 59-01(c), and Order No. 8458, by failing to produce all of its six revenue vehicles for inspection by Commission staff.

I. BACKGROUND

This investigation was initiated in Order No. 8458 on December 6, 2004, after respondent was found to not have an effective tariff on file with the Commission.

Order No. 8458 gave respondent thirty days to file an effective tariff and produce all of its revenue vehicles for inspection (to verify compliance with Commission Regulation No. 61 governing vehicle markings), or show cause why Certificate No. 374 should not be suspended or revoked for willful failure to comply with Article XI, Section 14, and Article XII, Section 1(b), of the Compact, Commission Regulation No. 59-01(c), and the terms of Order No. 8458.

Respondent filed several contract tariffs but failed to produce all of its revenue vehicles. Accordingly, Order No. 8640 suspended Certificate No. 374 and gave respondent thirty days to show cause why the Commission should not revoke Certificate No. 374 and/or assess a civil forfeiture.

II. RESPONSE AND ASSESSMENT OF FORFEITURE

Respondent subsequently presented all six revenue vehicles for inspection, and all but one passed. A 1995 Ford van

(VIN 1FBJS31H8SHA52070) displayed a District of Columbia safety/emissions inspection sticker marked "FAILED".¹

We find that respondent has shown good cause for not revoking Certificate No. 374. Respondent, however, has not shown good cause for avoiding a civil forfeiture for initially failing to present all of its revenue vehicles for inspection as required by Order No 8458.

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.²

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.³ The term "willfully" does not mean with evil purpose or criminal intent.⁴ Rather, it means purposely or obstinately, with intentional disregard or plain indifference.⁵ It describes conduct marked by careless disregard.⁶ Employee negligence is no defense.⁷

The record shows that respondent received a copy of Order No. 8458 on December 8, 2004. The timely production of tariffs and some revenue vehicles demonstrates respondent's awareness of its terms. Respondent does not contend otherwise.

Under the circumstances, we shall assess a forfeiture of \$250 for respondent's knowing and willful violation of Order No. 8458.⁸

In the meantime, the vehicle that failed inspection subsequent to the issuance of Order No. 8640 shall not be operated under

¹ See In re VOCA Corp. of Wash., D.C., No. MP-02-30, Order No. 7258 (June 20, 2003) (operation of vehicle with expired, invalid or missing safety inspection sticker violates Article XI, Section 5(a) of the Compact).

² Compact, tit. II, art. XIII, § 6(f)(i).

³ In re Junior's Enterprises, Inc., No. MP-01-103, Order No. 6549 (Feb. 21, 2002).

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ See id. (assessing \$250 forfeiture for knowing and willful failure to produce revenue vehicles).

Certificate No. 374 unless and until it has passed a safety inspection, as verified in writing by Commission staff.

THEREFORE, IT IS ORDERED:

1. That the suspension of Certificate of Authority No. 374 is hereby lifted.

2. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Order No. 8458.

3. That respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

4. That the 1995 Ford van which failed inspection by Commission staff shall not be operated under Certificate No. 374 unless and until said vehicle has passed a safety inspection, as verified in writing by Commission staff.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, MILLER, AND SMITH:



William S. Morrow, Jr.
Executive Director