

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9689

IN THE MATTER OF:

Served June 28, 2006

WHEELCHAIR MOBILE TRANSPORT, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 127)

Case No. MP-2005-186

This matter is before the Commission on respondent's response to Order No. 9543, served May 11, 2006.

I. BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force".¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 127 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 127 became invalid on December 28, 2005, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 9210, served December 28, 2005, noted the automatic suspension of Certificate No. 127 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 127, and gave respondent thirty days to replace the expired endorsement or face revocation of Certificate No. 127. Respondent submitted a \$1.5 million primary WMATC Insurance Endorsement on January 23, 2006. The effective date of the new endorsement was December 29, 2005, yielding a one-day insurance coverage gap.³

Accordingly, Order No. 9543, served May 11, 2006, gave respondent thirty days to furnish proof of having ceased operations as

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

³ Respondent eventually submitted an amended WMATC Insurance Endorsement, with an effective date of December 28, 2005, thus eliminating the gap.

of December 28, 2005. Because respondent's tariff on file with the Commission includes transportation under the District of Columbia Medicaid program and transportation to the general public, the requisite proof was to include corroboration by DC Medicaid and by respondent's general business records.

II. RESPONSE

Respondent claims that it has not operated at all since December 26, and ACS State Healthcare, the agent for processing carrier invoices for the District of Columbia Medicaid program, has confirmed that respondent ceased providing services to District of Columbia Medicaid recipients prior to December 28.

Respondent's general business records, however, tell a different story when it comes to service to others. Those records show that respondent is party to two other contracts for passenger transportation services, one with D.C. Chartered Health Plan, Inc., and one with LogistiCare Solutions, LLC, and that respondent provided for-hire transportation services between points in the Metropolitan District on 115 separate days from December 28, 2005, through May 11, 2006, despite the prohibition in Order No. 9210, that "respondent shall not transport passengers for hire under Certificate No. 127, unless and until otherwise ordered by the Commission." (Emphasis added).

III. SHOW CAUSE

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.⁴ Each day of the violation constitutes a separate violation.⁵ The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.⁶

Respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 127, for conducting operations under an invalid/suspended certificate of authority in violation of Article XI, Section 6(a), of the Compact and Commission Order No. 9210.

⁴ Compact, tit. II, art. XIII, § 6(f)(i).

⁵ Compact, tit. II, art. XIII, § 6(f)(ii).

⁶ Compact, tit. II, art. XI, § 10(c).

THEREFORE, IT IS ORDERED:

1. That respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Commission Order No. 9210.

2. That respondent shall have thirty days to show cause why the Commission should not revoke Certificate No. 127 for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact and Commission Order No. 9210.

3. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

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



William S. Morrow, Jr.
Executive Director

