

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9984

IN THE MATTER OF:

Served October 11, 2006

LEAN & HERNY TRANSPORTATION LLC,) Case No. MP-2006-161
Trading as L. A. & H TRANSIT,)
WMATC No. 758, and SANAGA SERVICES)
& CARE LLC, WMATC NO. 1120,)
Investigation of Unauthorized)
Consolidation of Operations)

This investigation is being initiated to determine whether respondents have violated Article XII, Section 3(a), of the Compact and Commission Order No. 9034 by consolidating their assets, books, finances or operations.

Article XII, Section 3(a), of the Compact provides that:

A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to: (i) consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District;. . . or (iii) acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

Respondents are commonly controlled by Anatole D. Nyemeck. The Commission approved Mr. Nyemeck's common control of respondents in Order No. 9034, served October 13, 2005, subject to the condition that each respondent "keep its assets, books, finances and operations completely separate from the other's."

Commission records show that respondents have contravened Order No. 9034 by consolidating their motor vehicle liability insurance coverage under a single insurance policy effective July 13, 2006. This calls into question whether other aspects of respondents' "assets, books, finances and operations" have been consolidated without Commission approval.

Accordingly, we shall direct respondents to produce their revenue vehicles for inspection as well as any and all records and documents in their possession, custody or control relating to transportation of passengers for hire between points in the Metropolitan District during the period beginning July 1, 2006, and ending on the date of this order.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondents and their operations in the Washington Metropolitan Area Transit District is hereby initiated under Article XIII, Section 1, of the Compact.

2. That within thirty days from the date of this order, each respondent shall submit a WMATC vehicle list and present its WMATC vehicle(s) for inspection by Commission staff.

3. That each respondent is directed to produce, within thirty days from the date of this order, any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within its possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning June 1, 2006, and ending on the date of this order, including, but not limited to any and all:

- a. customer contracts and invoices;
- b. invoices from other carriers;
- c. evidence of communications, including telephone logs, facsimile transmissions, and correspondence;
- d. calendars and itineraries;
- e. bank records;
- f. payroll records;
- g. insurance documents;
- h. advertising materials; and
- i. internal corporate documents, such as articles of incorporation, merger and amendment, bylaws, and minutes.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director