

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,417

IN THE MATTER OF:

Served April 20, 2007

SECOND TO NONE TOUR & TRAVEL INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 1154)

Case No. MP-2006-135

This matter is before the Commission on respondent's response to Order No. 10,278, served February 8, 2007.

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. 1154 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. 1154 was rendered invalid on August 30, 2006, when the \$5 million primary WMATC Insurance Endorsement on file for respondent expired without replacement. Order No. 9876, served August 30, 2006, noted the automatic suspension of Certificate No. 1154 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 1154, and gave respondent thirty days to replace the expired endorsement or face revocation of Certificate No. 1154.

Respondent initially submitted a \$5 million primary WMATC Insurance Endorsement on January 4, 2007, with an effective date of December 21, 2006, resulting in a 113-day insurance coverage gap, from August 30, 2006, through December 20, 2006. Citing Commission Rule No. 28,³ Order No. 10,278 gave respondent thirty days to verify

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

³ Rule No. 28 states that a person subject to the jurisdiction of the Commission shall verify compliance when directed by Commission order to do or perform any act. The Commission has interpreted this to apply to orders directing carriers to refrain from operating while suspended. See e.g., *Charming Servs. LLC*, No. MP-05-20, Order No. 9175 (Dec. 9, 2005) (requiring

cessation of operations as of August 30, 2006, as corroborated by evidence from respondent's general business records.

II. RESPONSE

Respondent produced documents responsive to Order No. 10,278 on March 5, 2007. Respondent also filed a revised WMATC Insurance Endorsement on April 12, 2007. Respondent has not submitted any statement, however.

The revised Endorsement has an effective date of August 30, 2006, thus eliminating the gap that precipitated Order No. 10,278. On the other hand, the documents produced by respondent indicate that respondent did not cease operating on August 30, 2006, as directed.

Among the documents produced by respondent are two invoices for transportation between points in the Metropolitan District on September 7, 2006, and December 8, 2006, while respondent's certificate of authority was suspended. It therefore appears that respondent continued operating while suspended.

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. 1154, for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Commission Order No. 9876 by conducting operations under an invalid/suspended certificate of authority.

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. 9876.

respondent with 25-day insurance gap to show cause for not filing Rule 28 verification).

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).

2. That respondent shall have thirty days to show cause why the Commission should not revoke Certificate No. 1154 for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact and Commission Order No. 9876.

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 AND CHRISTIE:



William S. Morrow, Jr.
Executive Director