

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,684

IN THE MATTER OF:

Served August 8, 2007

MEDINA TRANSPORTATION SERVICE,)
Trading as MEDINA EXPRESS,) Case No. MP-2005-110
Suspension and Investigation of)
Revocation of Certificate No. 732)

Application of JIHAD PROPERTIES) Case No. AP-2006-080
TRANSPORTATION SVC LLC, Trading as)
4 ALL OCCASIONS TRANSPORTATION)
SERVICE, for a Certificate of)
Authority -- Irregular Route)
Operations)

This matter is before the Commission on the failure of Medina Transportation Service, trading as Medina Express, and Jihad Properties Transportation Svc LLC, trading as 4 All Occasions Transportation Service, to respond to Order No. 9986, served October 11, 2006.

Case No. MP-2005-110 was initiated in Order No. 8982, served September 13, 2005, for the purpose of investigating the failure of Medina Transportation Service to maintain compliance with the Commission's insurance requirements in Regulation No. 58. Case No. AP-2006-080 was initiated in Order No. 9598, served June 2, 2006, for the purpose of determining the fitness of Jihad Properties Transportation Svc LLC for reinstatement of its WMATC operating authority. These proceedings were consolidated in Order No. 9986 pursuant to Rule No. 20-02 to resolve a common question of fact: Whether Medina or Jihad transported certain DC Medicaid passengers during the month of December 2005 when both carriers lacked WMATC authority.

I. CASE NO. MP-2005-110

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 Medina to insure the revenue vehicles operated under Certificate No. 732 for a minimum of

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

\$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. 732 was rendered invalid on September 13, 2005, when the \$1.5 million primary WMATC Insurance Endorsement on file for Medina terminated without replacement. Order No. 8982, served September 13, 2005, noted the automatic suspension of Certificate No. 732 pursuant to Regulation No. 58-02, directed Medina to cease transporting passengers for hire under Certificate No. 732, and gave Medina thirty days to replace the expired endorsement or face revocation of Certificate No. 732. Medina submitted a \$1.5 million primary WMATC Insurance Endorsement on October 14, 2005. The effective date of the new endorsement was September 23, 2005. This means Medina was without insurance coverage for ten days, from September 13, 2005, through September 22, 2005.³

Accordingly, Order No. 9177, served December 9, 2006, gave Medina thirty days to furnish proof of having ceased operations as of September 13, 2005. Because Medina'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 Medina's general business records.

According to ACS State Healthcare, the agent for processing carrier invoices for the District of Columbia Department of Health, Medical Assistance Administration, (DC Medicaid), Medina has submitted invoices for service performed on sixty-one days during the period when it was not authorized to operate because its certificate of authority was suspended, including several days during the month of December 2005.

In its defense, Medina states that it began subcontracting its transportation work to Jihad, formerly WMATC Carrier No. 597, on September 13, 2005. Medina's statement is corroborated by a copy of a written agreement between Medina and Jihad that obligates Jihad to transport passengers on Medina's behalf beginning September 12, 2005, and continuing until "Medina is prepared to resume transportation of its clients." The agreement has been authenticated by Jihad's owner, Vincent Goins, and is supported by several Jihad invoices for services rendered, including services rendered during December 2005.

II. CASE NO. AP-2006-080

After Case No. MP-2005-110 was initiated, Jihad had its operating authority revoked. Jihad has since filed an application seeking reinstatement of Certificate of Authority No. 597.

³ During the course of Case No. MP-2005-110, Medina's WMATC Insurance Endorsement was cancelled and reinstated several times. Currently, Medina has no WMATC Insurance Endorsement of file with the Commission.

Jihad held Certificate No. 597 from April 9, 2003, to March 16, 2006, when it was revoked in Order No. 9393 for Jihad's willful failure to comply with Order Nos. 9084 and 9085.⁴ Those earlier orders were served November 1, 2005, and advised Jihad that its operating authority would stand suspended if it did not file its overdue 2004 annual report, and pay its overdue \$100 annual fee for 2005 and a \$200 civil forfeiture, within thirty days.⁵ Jihad failed to comply. Its authority, therefore, stood suspended as of December 2, 2005, and continued in that status until revoked on March 16 of this year.

Jihad subsequently filed its 2004 annual report and paid all of the forfeiture and half of the annual fee.

III. COMMON QUESTION OF FACT

The question of fact common to both proceedings is: Which carrier -- Medina or Jihad -- transported certain DC Medicaid passengers during the month of December 2005 when both carriers were suspended?

As noted above, Medina has invoiced DC Medicaid for services rendered while Certificate No. 732 was suspended, including services rendered during the month of December 2005. But also as noted above, Medina contends that Jihad performed the transportation in question pursuant to a written agreement between Medina and Jihad, as supported by Jihad invoices produced by Medina, including an invoice for services rendered in December 2005.

If in fact Jihad performed transportation during December 2005 while its operating authority was suspended, that would reflect adversely on Jihad and its application for reinstatement. On the other hand, if Medina performed that transportation, that would reflect adversely on Medina and its effort to retain Certificate No. 732.

Accordingly, Order No. 9986 gave Medina and Jihad thirty days to submit evidence demonstrating conclusively which carrier provided the transportation covered by Jihad's December invoice, which seeks reimbursement for transportation on December 1-2, 5-9, 12-16, and 19-23. Such evidence was to be corroborated by each passenger identified in the December invoice in the form of an affidavit identifying the carrier that performed the transportation.

Neither Medina nor Jihad has responded to Order No. 9986.

⁴ *In re Jihad Properties Transp. SVC LLC, t/a 4 All Occasions Transp. Serv.*, No. MP-05-142, Order No. 9393 (Mar. 16, 2006).

⁵ *In re Jihad Properties Transp. SVC LLC, t/a 4 All Occasions Transp. Serv.*, No. MP-05-142, Order No. 9084 (Nov. 1, 2005); *In re Jihad Properties Transp. SVC LLC, t/a 4 All Occasions Transp. Serv.*, No. MP-05-157, Order No. 9085 (Nov. 1, 2005).

IV. ORDER OF REVOCATION AND DISMISSAL

Under the Compact, an application to obtain a certificate of authority shall be made in writing, verified, and shall contain the information required by the application form and accompanying instructions.⁶ An applicant may be required to furnish supplemental information necessary for a full and fair examination of the application.⁷ Failure to comply with the Commission's application requirements warrants dismissal.⁸ Because Jihad has failed to furnish information necessary for a full and fair examination of the application, Jihad's application shall be dismissed.

As for Medina, we note that Certificate No. 732 has been suspended since September 13, 2005. According to Commission Regulation No. 65: "Any Certificate of Authority that remains suspended for 365 consecutive days, for any reason, shall be deemed terminated and revoked effective on the 366th day."

THEREFORE, IT IS ORDERED:

1. That the application of Jihad Properties Transportation Svc LLC, trading as 4 All Occasions Transportation Service, for a certificate of authority is hereby dismissed without prejudice for want of prosecution.

2. That pursuant to Commission Regulation No. 65, Certificate of Authority No. 732 stands revoked.

3. That within 30 days from the date of this order Medina Transportation Service shall:

- a. remove from its vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- c. surrender Certificate No. 732 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

⁶ Compact, tit. II, art. XI, § 8; Regulation No. 54-02.

⁷ Regulation No. 54-04(b).

⁸ *In re One, LLC, t/a Bon Voyage*, No. AP-04-103, Order No. 8212 (Aug. 5, 2004).