

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,850

IN THE MATTER OF:

Served October 19, 2007

IBRAHIM A. FAHADI, Suspension and)
Investigation of Revocation of)
Certificate No. 982)

Case No. MP-2007-117

This matter is before the Commission on respondent's response to Order No. 10,643, served July 20, 2007.

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. 982 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. 982 was rendered invalid on June 6, 2007, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 10,529, served June 6, 2007, noted the automatic suspension of Certificate No. 982 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 982, and gave respondent thirty days to replace the cancelled endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 982.

Respondent paid the late fee on June 8, 2007, and submitted a \$1.5 million primary WMATC Insurance Endorsement on June 11, 2007, with an effective date of June 20, 2007, instead of June 6, 2007. Thus, as matters stood then, respondent was without insurance coverage for fourteen days, from June 6, 2007, through June 19, 2007.

Under Commission Rule No. 28, respondent is required to verify that he ceased transporting passengers for hire under Certificate No. 982 as directed by Order No. 10,529. Order No. 10,643 accordingly

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

directed respondent to verify cessation of operations as of June 6, 2007. Inasmuch as respondent's general tariff covers service rendered to the general public and to clients of the Easter Seal Society and the District of Columbia Department of Health, Medical Assistance Administration (DC Medicaid), the verification was to be corroborated with copies of respondent's general business records and confirmation from the Easter Seal Society and DC Medicaid.

II. RESPONSE

Respondent submitted a revised \$1.5 million replacement WMATC Insurance Endorsement on August 3, 2007. The revised replacement is effective June 6, 2007; thus eliminating the 14-day gap in coverage under the original replacement endorsement. Respondent also filed a statement asserting that he provides transportation for DC Medicaid passengers only, and a statement from ACS State Healthcare, DC Medicaid's agent for processing carrier invoices, stating that as of August 8, respondent had not submitted any claims for service on or after June 6.

Respondent, however, has not filed any statement from the Easter Seal Society corroborating respondent's representation that he only transports DC Medicaid passengers notwithstanding a tariff on file with the Commission for service to Easter Seal passengers. Respondent's own statement stops short of a clear declaration that respondent ceased all operations in the Metropolitan District on June 6 in accordance with Order No. 10,529. Indeed, respondent's bank statements show a substantial number of transactions at service stations during the suspension period consistent with gasoline purchases. The number of purchases actually appears to have accelerated after June 6. This purchase activity is not consistent with a halt in operations. The deposit activity reflected in respondent's bank statements is not consistent with a halt in operations, either. Bank statements are the only business records respondent produced in response to Order No. 10,643, and they are incomplete at that.

Inasmuch as respondent has closed the 14-day coverage gap and is currently in compliance with Regulation No. 58, we will lift the suspension.³ But given the state of this record, respondent will be directed to file or produce: (1) a written statement clearly stating whether respondent timely ceased all operations in the Metropolitan District; (2) a statement from the Easter Seal Society corroborating respondent's claim that the Easter Seal Society was not one of respondent's clients during the suspension period; and (3) copies of all business records, including copies of bank deposit items and gas station receipts, for the period beginning April 1, 2007, and ending on the date of this order.⁴

³ See *In re Central African Women Empowerment Org. Corp., t/a CAWEO Transp. Servs.*, No. MP-03-65, Order No. 7948 at 2 (Apr. 20, 2004) (discussing lifting of suspension in prior gap proceeding after gap endorsement filed).

⁴ See *In re Sydney Shuttle LLC*, No. MP-07-064, Order No. 10,520 (June 1, 2007) (requiring verification and additional confirmation and corroboration);

THEREFORE, IT IS ORDERED:

1. That within thirty days from the date of this order, respondent shall file a written statement clearly stating whether respondent ceased all operations in the Metropolitan District from June 6, 2007, to the date of this order.

2. That within thirty days from the date of this order, respondent shall file a statement from the Easter Seal Society confirming respondent's claim that the Easter Seal Society was not one of respondent's clients from June 6, 2007, to the date of this order.

3. That within thirty days from the date of this order, respondent shall produce any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within respondent's possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning April 1, 2007, and ending on the date of this order, including, but not limited to any and all:

- a. gas station receipts;
- b. customer contracts and invoices;
- c. invoices from other carriers;
- d. calendars and itineraries;
- e. bank records, including copies of all deposit items;
- f. insurance documents;
- g. advertising materials; and
- h. income tax and personal property returns.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:

William S. Morrow, Jr.
Executive Director

see also *In re Zee Transp. Serv. Inc.*, No. MP-07-120, Order No. 10,671 (Aug. 8, 2007) (assessing forfeiture for operating while suspended notwithstanding closure of gap).