

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,925

IN THE MATTER OF:

Served November 20, 2007

Application of EMANCO TRANSPORTATION)  
INC to Acquire Certificate No. 923 )  
from ABDELMAGID KAHLIEL HAMID )  
KHALIEL, Trading as EMANCO TRANS )

Case No. AP-2007-016

EMANCO TRANSPORTATION INC and )  
ABDELMAGID KAHLIEL HAMID KHALIEL, )  
Trading as EMANCO TRANS, )  
WMATC NO. 923, Investigation of )  
Violation of the Compact, )  
Article XI, Sections 5(a) and 11(b), )  
and Regulation No. 58, and Order )  
No. 10,504 )

Case No. MP-2007-245

This matter is before the Commission on the apparent premature transfer of operations to applicant, failure of the parties to report all vehicles to the proper insurance companies, and failure of applicant to file safety inspection certificates for all vehicles and present all vehicles for inspection by Commission staff.

**I. BACKGROUND**

Applicant, Emanco Transportation Inc, filed an application on January 30, 2007, seeking Commission approval to acquire Certificate No. 923 from Abdelmagid Kahliel Hamid Khaliel, trading as Emanco Trans. Khaliel had agreed to transfer Certificate No. 923 and other assets in exchange for a controlling interest in the corporation.

The application was approved in Order No. 10,504 on May 25, 2007, after a provisional finding of fitness based on the record before the Commission at that time. Issuance of Certificate No. 923 to the corporation was conditioned on applicant producing all of its vehicles for inspection. Applicant was cautioned not to commence operations unless and until Certificate No. 923 is reissued in applicant's name. The certificate has not been reissued in applicant's name yet because it appears applicant has still not satisfied all of the conditions specified in Order No. 10,504. It appears applicant has not filed safety inspection certificates for all of its vehicles and not presented all of its vehicles for inspection by Commission staff.

Applicant filed a vehicle list on September 7, 2007, showing one vehicle, a 1994 Ford van, VIN ending 22280. Applicant presented the vehicle for inspection that same day, and it passed. Applicant later refiled the same vehicle list on November 6. It appears,

however, that applicant may be intending to commence operations with three other vehicles that have not passed inspection by Commission staff.

The first vehicle was the subject of a hit-and-run complaint concerning an incident alleged to have occurred on May 22. The complaint was accompanied by photos of a white van marked "EMANCO 202-409-3042"<sup>1</sup> on the side just below the windows and beneath that "TRANSPORTATION, INC". The van displayed Virginia license plate number KGL-3819. Virginia DMV records show that this vehicle, a 1994 Ford van with a VIN ending 11312, is registered to Mr. Khaliel.

The second vehicle at issue, is the vehicle listed in the annual report filed by Mr. Khaliel in January of this year, a 1994 Ford van, VIN ending 25864.

The third additional vehicle at issue appears on a vehicle list obtained from one of Mr. Khaliel's clients, Medical Transportation Management, Inc., (MTM). That vehicle is a 1999 Chevy Astro, VIN ending 112785. The carrier operating that vehicle is identified by MTM as "Emanco Trans, Inc."

Only the van on the September 7 list filed in this proceeding has been reported to Mr. Khaliel's insurance company of record, National Continental Insurance Company, and applicant's insurance company of record, Northland Insurance Company.

## II. POSSIBLE VIOLATIONS

It would appear from the evidence recited above that applicant has already commenced operations in vehicles that have not passed staff inspection and have not been reported to the proper insurance companies. Transferring operations prematurely is grounds for assessing a civil forfeiture and revoking a certificate of authority,<sup>2</sup> as is operating unsafe vehicles and vehicles without the necessary insurance coverage.<sup>3</sup>

Although coverage under the WMATC Insurance Endorsements on file for Carrier No. 923 applies to any vehicle operated under Certificate No. 923 whether or not identified in the policy, we are concerned that the failure of Mr. Khaliel and applicant to report all

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<sup>1</sup> 202-409-3042 is the phone number of record for applicant and Mr. Khaliel.

<sup>2</sup> See *In re Zainabu Kamara, t/a Nallah Transp. Express, & Nallah Transp. Express, Inc.*, No. MP-03-62, Order No. 7854 (Mar. 12), (assessing forfeiture and revoking authority of sole proprietor for prematurely transferring operations to new corporation), *aff'd on reconsideration*, Order No. 8062 (June 7, 2004).

<sup>3</sup> See *In re Westview Medical & Rehabilitation Services, P.C. Inc.*, No. MP-07-070, Order No. 10,882 (Nov. 2, 2007) (revoking authority where carrier had primary insurance policy but no primary WMATC Endorsement); *In re Junior's Enterprises, Inc.*, No. MP-01-103, Order No. 6479 (Jan. 3, 2002) (suspending authority and directing carrier to show cause for not assessing forfeiture and revoking authority, in part for operating unsafe vehicles).

four vehicles to the insurance companies of record leaves open the possibility that not all claimants will be informed of the existence of those Endorsements. Indeed that appears to have happened already.

Accompanying the hit-and-run complaint noted above is a copy of a notice issued by Mr. Khaliel's private auto insurer, Deerbrook Insurance Company, denying the hit-and-run claim on the ground that the policy does not cover accidents while the vehicle is "used as a public or livery conveyance." Mr. Khaliel's commercial auto insurer at the time of the alleged accident was Progressive Casualty Insurance Company. On these facts, Mr. Khaliel should have alerted claimant to the existence of the Progressive policy. Concealment of the existence of a WMATC Insurance Endorsement is a violation of the Commission's insurance regulation, Regulation No. 58.<sup>4</sup> A carrier may not possess more than one policy for any given layer of coverage, in any event.<sup>5</sup>

### III. ORDER TO 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.<sup>6</sup> Each day of the violation constitutes a separate violation.<sup>7</sup> 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.<sup>8</sup>

Applicant and Mr. Khaliel shall have thirty days to show cause why the Commission should not assess a civil forfeiture and/or suspend or revoke Certificate No. 923 for knowingly and willfully violating Article XI, Sections 5(a) and 11(b), of the Compact, Regulation No. 58, and Order No. 10,504, by prematurely transferring operations to applicant, failing to report all vehicles to the proper insurance companies, failing to file safety inspection certificates for all vehicles, and failing to present all vehicles for staff inspection.

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<sup>4</sup> See *In re Shirley L. Nelson, t/a L&N Transp.*, No. MP-96-16, Order No. 4770 (Feb. 26, 1996) (Regulation No. 58 designed and enforced to prevent carrier from misleading claimant as to full coverage under WMATC Endorsement).

<sup>5</sup> See *In re Comfort Ama Arthur, t/a El-Shaddai Transp.*, MP-07-181, Order No. 10,635 (July 17, 2007) (two vans, two primary policies); *In re Americare Medical Transp., Inc.*, MP-05-37, Order No. 8621 (Apr. 1, 2005) (same); *In re E-Z Medical Wheels, Inc.*, MP-03-110, Order No. 7461 (Oct. 10, 2003) (multiple vans, two primary policies); *In re Jihad Properties Transp. SVC LLC, t/a 4 All Occasions Transp. Serv.*, No. MP-03-85, Order No. 7360 (Aug. 21, 2003) (two vans, two primary policies); *In re Nile Express Transport, Inc.*, No. MP-00-22, Order No. 5939 (July 21, 2000) (same).

<sup>6</sup> Compact, tit. II, art. XIII, § 6(f)(i).

<sup>7</sup> Compact, tit. II, art. XIII, § 6(f)(ii).

<sup>8</sup> Compact, tit. II, art. XI, § 10(c).

THEREFORE, IT IS ORDERED:

1. That the parties shall have thirty days to show cause why the Commission should not assess a civil forfeiture for knowingly and willfully violating Article XI, Sections 5(a) and 11(b), of the Compact, Regulation No. 58, and Order No. 10,504.

2. That the parties shall have thirty days to show cause why the Commission should not suspend or revoke Certificate No. 923 for willful failure to comply with Article XI, Sections 5(a) and 11(b), of the Compact, Regulation No. 58, and Order No. 10,504.

3. That the parties 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