

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,207

IN THE MATTER OF:

Served March 6, 2008

METRO HEALTH-TECH SERVICES INC.,) Case No. MP-2007-057
WMATC No. 589, Investigation of)
Violation of Article XI,)
Section 5(a), of the Compact)

This investigation is being initiated to determine whether respondent knowingly and willfully violated Article XI, Section 5(a) of the Compact.

I. BACKGROUND

Article XI, Section 5(a), provides that each authorized carrier shall provide safe and adequate transportation service, equipment, and facilities.

On November 9, 2007, the Commission received a fax from a participant in the Washington Metropolitan Area Transit Authority's (WMATA) MetroAccess program. The MetroAccess program is operated for the benefit of disabled individuals, and is WMATA's means of complying with the Americans with Disabilities Act of 1990,¹ which in pertinent part prohibits discrimination against the disabled by public transportation providers.

The MetroAccess program participant complained about the conditions in a vehicle in which she had been transported. The complaint states in part, "when I boarded the van I smelled a foul odor. It was terrible, not only did the van smell but the van was filthy. On the seat was stains. . . . Then to top it off, my morning pickup vehicle had no heat and it was 40 degrees."

The complainant identified an operator name and vehicle fleet number that links the van to respondent, Metro Health-Tech Services Inc., WMATC No. 589. Respondent is one of eight subcontractors that currently have tariffs on file with the Commission to provide MetroAccess services. These subcontractors operate pursuant to agreements with MV Transportation, Inc., WMATC No. 764, which in-turn holds the contract with WMATA to operate the MetroAccess program.

After receiving the complaint and determining that respondent operated the vehicle that was the subject of the complaint, Commission staff issued a letter on November 9, 2007, directing respondent to file a current vehicle list and current safety inspection certificates for all vehicles on the list. The letter also directed respondent to

¹ 42 U.S.C. § 12101, et. seq. (2003).

present for inspection ten vehicles randomly selected by Commission staff. To date, respondent has produced no safety inspection certificates and only two vehicles. Only one of the two vehicles passed inspection.

II. ORDER TO PRESENT VEHICLES

The Commission may investigate on its own motion a fact, condition, practice, or matter to determine whether a person has violated or will violate a provision of the Compact or a rule, regulation, or order.² For the purpose of an investigation or other proceeding under the Compact, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.³ The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.⁴

If the Commission finds that a respondent has violated a provision of the Compact or any requirement established under it, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.⁵

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.⁶ Each day of the violation constitutes a separate violation.⁷

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.⁸

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁹ The term "willfully" does not mean with evil purpose or criminal intent;

² Compact, tit. II, art. XIII, § 1(c).

² Compact, tit. II, art. XIII, § 1(e).

⁴ Compact, tit. II, art. XII, § 1(b).

⁵ Compact, tit. II, art. XIII, § 1(d).

⁶ Compact, tit. II, art. XIII, § 6(f).

⁷ Compact, tit. II, art. XIII, § 6(f)(ii).

⁸ Compact, tit. II, art. XI, § 10(c).

⁹ *In re Paramed Medical Transp., Inc.*, No. MP-02-50, Order No. 6799 (Sept. 3, 2002).

rather, it describes conduct marked by careless disregard whether or not one has the right so to act.¹⁰

The Commission will initiate an investigation to determine whether respondent is in compliance with Article XI, Section 5(a), of the Compact.

THEREFORE, IT IS ORDERED:

1. That an investigation of the operations of Metro Health-Tech Services Inc., WMATC No. 589, in the Washington Metropolitan Area Transit District is hereby initiated under Article XIII, Section 1, of the Compact.

2. That respondent shall produce within fifteen days:

- a. a current list of vehicles operated by respondent;
- b. copies of the for-hire registration cards for those vehicles; and
- c. copies of the current safety inspection certificates for those vehicles.

3. That respondent shall produce within thirty days all vehicles for inspection by Commission staff.

4. That respondent may not operate any vehicle that fails inspection by staff unless and until such vehicle passes reinspection.

5. That Certificate of Authority No. 589 shall be subject to suspension or revocation upon respondent's failure to timely comply with the requirements of this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

¹⁰ *Id.*