

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,361

IN THE MATTER OF:

Served May 15, 2008

GIZACHEW WOURGASSO NERRI, Trading)
as H&H GN TRANSPORT, Suspension and)
Investigation of Revocation of)
Certificate No. 981)

Case No. MP-2008-002

This matter is before the Commission on respondent's response to Order No. 11,179, served February 29, 2008, directing respondent to show cause why the Commission should not assess a civil forfeiture and/or revoke Certificate No. 981.

I. BACKGROUND

Certificate No. 981 was suspended January 2, 2008, for respondent's willful failure to comply with the insurance requirements specified in Regulation No. 58. Order No. 11,059, served January 2, 2008, noted that Certificate No. 981 would be subject to revocation if respondent failed to file the necessary insurance endorsement(s) and pay a \$50 late fee within thirty days. Respondent also was directed to file a new tariff because respondent's existing tariff was no longer in effect.

Respondent filed the necessary insurance endorsement(s) on January 4, 2008 and paid the late fee on January 14, 2008, but respondent had yet to submit a new tariff as of February 29, 2008. Order No. 11,179 accordingly gave respondent thirty days to show cause why the Commission should not assess a civil forfeiture and/or revoke Certificate No. 981. Respondent filed an acceptable tariff on March 4, 2008, but has not offered any explanation for failing to file the tariff within the thirty days provided in Order No. 11,059.

II. ASSESSMENT OF FORFEITURE AND LIFTING OF SUSPENSION

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.¹ Each day of the violation constitutes a separate violation.²

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a

¹ Compact, tit. II, art. XIII, § 6(f).

² Compact, tit. II, art. XIII, § 6(f)(ii).

provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.³

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁴ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard whether or not one has the right so to act.⁵

Because respondent has offered no explanation for failing to timely respond to Order No. 11,059, we will assess a forfeiture of \$250.⁶

Because respondent is now in compliance with the Commission's insurance and tariff requirements, we shall lift the suspension.

THEREFORE, IT IS ORDERED:

1. That the suspension of Certificate No. 981 is hereby lifted.

2. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Commission Order No. 11,059.

3. That respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

4. That Certificate No. 981 shall be subject to suspension and/or revocation pursuant to Article XI, Section 10(c) of the Compact if respondent fails to timely comply with the requirements of this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

³ Compact, tit. II, art. XI, § 10(c).

⁴ *In re Global Imex Inc.*, No. MP-07-135, Order No. 11,107 (Jan. 29, 2008).

⁵ *Id.*

⁶ See *id.* (assessing \$250 for failing to timely respond to order).