

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,627

IN THE MATTER OF:

Served October 10, 2008

BOOMERANG TOURS, INC., Suspension)
and Investigation of Revocation of)
Certificate No. 1289)

Case No. MP-2008-204

This matter is before the Commission on respondent's response to Order No. 11,569, served September 10, 2008, noting the automatic suspension of Certificate No. 1289 pursuant to Regulation No. 58-12.

I BACKGROUND

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. 1289 for a minimum of \$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. 1289 was rendered invalid on September 10, 2008, when the \$1.5 million primary and the \$3.5 million excess WMATC Insurance Endorsements on file for respondent terminated without replacement. Order No. 11,569, noted the automatic suspension of Certificate No. 1289 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1289, and gave respondent thirty days to replace the expired endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1289.

Respondent thereafter paid the late fee and submitted new \$1 million primary and \$4 million excess WMATC Insurance Endorsements, but the new endorsements are effective September 27, 2008, instead of September 10, 2008. This means that respondent was without insurance coverage for seventeen days, from and including September 10, 2008, through September 26, 2008.

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

Under Regulation No. 58-14:

If a carrier's operating authority is suspended under Regulation No. 58-12 and the effective date of a later-filed replacement Endorsement falls after the automatic suspension date, the carrier must verify timely cessation of operations in accordance with Commission Rule No. 28 and corroborate the verification with client statements and/or copies of pertinent business records, as directed by Commission order.

II. RESPONSE

Respondent has filed a statement verifying cessation of operations as of September 10, 2008. Respondent further states that it hired another carrier to conduct two scheduled tours in the Metropolitan District on its behalf on September 13 and 20 and cancelled three others. Respondent's business records tend to support both statements. The records indicate respondent hired another carrier to conduct tours on its behalf as stated and notified patrons of the three other tours that those tours had been cancelled.

But respondent's records also indicate respondent advised its patrons that because of the insurance coverage gap, respondent would "not [be] able to use [its] Boomerang Buses until September 24th." This raises the possibility that respondent resumed operations on or after September 24, notwithstanding assurances that no operations have been performed since September 10.

III. ORDER TO LIFT SUSPENSION AND CONTINUE INVESTIGATION

Inasmuch as respondent 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 submit a statement verifying cessation of operations from September 10 until the date of this order. The statement shall be corroborated by copies of respondent's pertinent business records.

THEREFORE, IT IS ORDERED:

1. That the suspension of Certificate No. 1289 is hereby lifted.
2. 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 September 10, 2008, and ending on the date of this order, including, but not limited to any and all:

³ See *In re Epps Transp. Co., Inc.*, No. MP-08-124, Order No. 11,613 (Oct. 6, 2008) (same).

- a. customer contracts and invoices;
- b. invoices from other carriers;
- c. calendars and itineraries;
- d. bank and payroll records;
- e. insurance documents;
- f. advertising materials;
- g. income tax and personal property returns.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director