

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,634

IN THE MATTER OF:

Served October 16, 2008

Application of LEAN & HERNY)
TRANSPORTATION LLC, Trading as) Case No. AP-2008-147
L. A. & H TRANSIT, for Voluntary)
Termination of Certificate No. 758)

LEAN & HERNY TRANSPORTATION LLC,) Case No. MP-2008-104
Trading as L. A. & H TRANSIT,)
Suspension and Investigation of)
Revocation of Certificate No. 758)

This investigation was initiated in Order No. 11,310 served April 24, 2008, because Lean & Herny Transportation LLC, t/a L. A. & H Transit (Lean & Herny) had not filed an acceptable tariff covering the service it was providing under an agreement with Medical Transportation Management, Inc. (MTM), as required by Article XI, Section 14 of the Compact and Regulation No. 55. Order No. 11,310 gave Lean & Herny thirty days to file a valid tariff covering its work for MTM or show cause why Certificate No. 758 should not be suspended or revoked, and/or why Lean & Herny should not be assessed a civil forfeiture.

After Lean & Herny failed to respond, this Commission issued Order No. 11,427, on June 25, 2008, which suspended Certificate No. 758 and assessed a \$250 civil forfeiture against Lean & Herny. Order No. 11,427 noted that Certificate No. 758 would be subject to revocation if Lean & Herny failed to show cause why its certificate of authority should not be revoked.

Lean & Herny filed an acceptable contract tariff covering its operations for MTM on July 1, 2008, but has yet to pay the \$250 civil forfeiture. Instead, on September 3, 2008, Lean & Herny filed an application requesting voluntary termination of Certificate No. 758. The application was accompanied by the original copy of Certificate No. 758 and a notarized statement verifying removal of the identification markings from Lean & Herny's vehicle.

Although the Commission may terminate a certificate of authority under Title II of the Compact, Article XI, Section 10(b), upon application by the holder, voluntary termination is not available if the carrier is not in good standing with the Commission.¹

¹ See, e.g., *In re Custom Tours of Washington, Inc.*, No. AP-07-89, Order No. 10,539 (June 7, 2007).

Because Lean & Herny is not in good standing with the Commission, having failed to pay the \$250 civil forfeiture assessed in Order No. 11,427, we shall deny its application for voluntary termination.²

Because Lean & Herny has failed to timely pay the \$250 civil forfeiture assessed in Order No. 11,427, Certificate No. 758 shall be revoked pursuant to Article XI, Section 10(c), of the Compact for Lean & Herny's willful failure to comply with Order No. 11,427. The unpaid \$250 civil forfeiture shall remain due.

THEREFORE, IT IS ORDERED:

1. That the application of Lean & Herny Transportation LLC, t/a L. A. & H Transit, for voluntary termination of Certificate No. 758 is hereby denied.

2. That Certificate of Authority No. 758 is hereby revoked.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

² See *Id.* (denying voluntary termination because fees not paid).