

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,697

IN THE MATTER OF:

Served November 19, 2008

Application of HP TRANSPORTATION ) Case No. AP-2008-157  
SERVICES, INC., for a Certificate )  
of Authority -- Irregular Route )  
Operations )

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If this standard has not been met, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>1</sup> A determination of compliance fitness is prospective in nature.<sup>2</sup> The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.<sup>3</sup> Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.<sup>4</sup> The past conduct of an applicant's owners and officers is relevant to a determination of applicant's compliance fitness.<sup>5</sup>

This is the second application filed by this applicant. The first application was denied without prejudice for failure to establish regulatory compliance fitness.<sup>6</sup> Applicant's CEO, Vincent M. Anderson, had previously conducted passenger carrier operations in the

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<sup>1</sup> *In re HP Transp. Servs., Inc.*, No. AP-07-257, Order No. 11,242 (Mar. 31, 2008).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

Metropolitan District through Handi-Pro Transportation, Inc., (Handi-Pro), while suspended and uninsured in knowing and willful violation of Article XI, Section 6(a) of the Compact, resulting in the revocation of Handi-Pro's certificate of authority.<sup>7</sup> Handi-Pro reapplied for operating authority, but that application was withdrawn.<sup>8</sup> Mr. Anderson then formed applicant and had applicant file a similar application. That application was denied because there was "little evidence" that Mr. Anderson had "put in place personnel and/or process sufficient to prevent recurring violations of routine regulatory requirements."<sup>9</sup>

In this application there is no evidence that Mr. Anderson has put in place personnel and/or process sufficient to prevent recurring violations of routine regulatory requirements. In fact, the evidence is to the contrary. Mr. Anderson blames his spouse for his prior regulatory lapses instead of shouldering the responsibility himself and explaining the steps he has taken "to prevent a recurrence of regulatory violations in the future."<sup>10</sup> Mr. Anderson alleges that his wife concealed from him the Commission's notice that his company's insurance coverage had been cancelled. But the record is clear that the cause of the cancellation was his company's failure to make the necessary insurance premium payments,<sup>11</sup> a matter well within his knowledge and scope of responsibility. This deflection of blame and failure to accept responsibility renders hollow his assurances to "pay my bills timely".

On this record, we cannot say that applicant has established regulatory compliance fitness.

THEREFORE, IT IS ORDERED that the application of HP Transportation Services, Inc., for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.  
Executive Director

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<sup>7</sup> *In re Handi-Pro Transp., Inc.*, No. MP-07-060, Order No. 10,817 (Oct. 10, 2007).

<sup>8</sup> *In re Handi-Pro Transp., Inc.*, No. AP-07-228, Order No. 11,031 (Dec. 20, 2007).

<sup>9</sup> Order No. 11,242.

<sup>10</sup> *In re EMK Services Inc.*, No. AP-05-05, Order No. 8921 (Aug. 19, 2005).

<sup>11</sup> Order No. 10,817 at 4.