

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 11,953

IN THE MATTER OF:

Served April 28, 2009

SKYHAWK LOGISTICS, INC., Suspension )  
and Investigation of Revocation of )  
Certificate No. 406 )

Case No. MP-2009-044

This matter is before the Commission on respondent's response to Order No. 11,895, served March 17, 2009.

**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."<sup>1</sup> A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.<sup>2</sup>

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 406 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. 406 was rendered invalid on March 17, 2009, when the \$1 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,895 noted the automatic suspension of Certificate No. 406 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 406, and gave respondent thirty days to replace the terminated endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 406.

The excess endorsement subsequently expired on March 20, 2009 without replacement. Order No. 11,895 anticipated this by stating that in the event respondent failed to satisfy the requirements of Order No. 11,895 prior to March 20, respondent would have the remainder of the thirty days for replacing the primary coverage to replace the excess coverage.

Respondent paid the \$50 late insurance fee on April 1, 2009, submitted an acceptable \$1 million primary WMATC Insurance Endorsement on April 23, 2009, and submitted an acceptable \$4 million excess WMATC

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<sup>1</sup> Compact, tit. II, art. XI, § 6(a).

<sup>2</sup> Compact, tit. II, art. XI, § 7(g).

Insurance Endorsement on April 28, 2009. The effective dates of the new endorsements are March 27, 2009 for the primary instead of March 17, 2009, and March 26, 2009 for the excess instead of March 20, 2009.

**II. ORDER TO LIFT SUSPENSION AND CONTINUE INVESTIGATION**  
Regulation No. 58-14 provides that:

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.

Respondent's Director of Contract Operations, Kevin Madden, Sr., has filed a statement verifying cessation of operations from March 17, 2009 through March 26, 2009. The statement is not under oath as required by Rule No. 4. Respondent will be directed to file a statement under oath that addresses the time period beginning March 17, 2009, and ending on the date of this order. Respondent shall corroborate its statement with a statement from respondent's sole client of record, the Defense Intelligence Agency (DIA).

Inasmuch as respondent has paid the late insurance fee under Regulation No. 67-03(c) and reestablished compliance with Regulation No. 58, the suspension of Certificate No. 406 shall be lifted.

In a related matter, respondent's DIA contract tariff expired February 28, 2009. Respondent has filed an amendment to its DIA contract tariff exercising the current option year, but the contract tariff cover form is missing, and respondent has not paid the \$50 tariff filing fee. Respondent shall have thirty days to make a proper filing and pay the filing fee.

**THEREFORE, IT IS ORDERED:**

1. That the suspension of Certificate No. 406 is hereby lifted.

2. That within thirty days from the date of this order, respondent shall submit an affidavit stating whether respondent operated during the period beginning March 17, 2009, and ending on the date of this order.

3. That within thirty days from the date of this order, respondent shall produce a statement from its client, the Defense Intelligence Agency, stating whether and to what extent DIA received transportation service from respondent during the period beginning March 17, 2009, and ending on the date of this order.

4. That, within thirty days, respondent shall file a corrected amendment to its Contract Tariff No. CT-1 in accordance with Regulation Nos. 55 and 56, and pay the \$50 filing fee pursuant to Regulation No. 67-01.

FOR THE COMMISSION:

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.  
Executive Director