

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,098

IN THE MATTER OF:

Served July 21, 2009

Application of AHMED SAID NASER,) Case No. AP-2009-045
Trading as EACF TRANSPORTATION)
SERVICE, 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.

Applicant proposes commencing operations with one van. Applicant proposes operating under a tariff containing rates for Medicaid transportation, rates for private pay ambulatory/wheelchair transportation, and rates for transportation under contracts with private entities.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Normally, such evidence would establish applicant's fitness,¹ but in this applicant has a history of regulatory violations. When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of applicant's future

¹ *In re Smart Ride, Inc.*, No. AP-08-081, Order No. 11,446 (July 1, 2008).

compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5) whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.²

Applicant previously held WMATC Certificate of Authority No. 521 from March 1, 2000, until February 24, 2009, when Certificate No. 521 was revoked in Order No. 11,859 for willful failure to comply with the Commission's insurance regulation, Regulation No. 58.³ Order No. 11,859 also noted that applicant owed a \$50 late insurance fee, a 2009 annual report pursuant to Regulation No. 60-01, a \$150 2009 annual fee pursuant to Regulation No. 67-02, and \$200 in late fees pursuant to Regulation No. 67-03(a),(b) for failing to file the annual report and pay the annual fee on or before February 2, 2009.

Applicant subsequently paid the \$50 insurance late fee, the \$150 2009 annual fee, the \$200 in late fees for failing to timely file an annual report and pay the annual fee, and filed a 2009 annual report on April 21, 2009. Applicant has also surrendered Certificate No. 521 to the Commission and submitted a notarized affidavit stating that it has removed its vehicle markings identifying it as a WMATC carrier, as directed by Order No. 11,859.

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.

In the event this application is approved, it is doubtful that any WMATC Endorsement filed by applicant will display an effective date on or before January 9, 2009, the date Certificate No. 521 was automatically suspended for applicant's failure to maintain an effective WMATC Endorsement on file with the Commission.

Applicant states that "EACF Transportation Service" has not conducted business since October 19, 2007, but applicant has not produced any corroborating documents. We will require applicant to

² *Id.*

³ *In re Ahmed S. Naser, t/a EACF Transp. Serv.*, No. MP-09-006, Order No. 11,859 (Feb. 24, 2009).

corroborate its statement with copies of respondent's pertinent business records.⁴

THEREFORE, IT IS ORDERED: 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, December 1, 2008, and ending on the date of this order, including, but not limited to any and all:

- a. customer contracts and invoices;
- b. calendars and itineraries; and
- c. bank and credit card statements.

FOR THE COMMISSION:



William S. Morrow, Jr.
Executive Director

⁴ See *Angel Enter. Inc., t/a The Angels*, No. MP-09-049, Order No. 12,001 (May 18, 2009) (same); see also Regulation No. 54-04(b) (notice of application acceptance may require applicant to furnish additional information necessary to a full and fair determination of the application).