

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,456

IN THE MATTER OF:

Served June 24, 2010

ADDIS TRANSPORTATION, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 1314)

Case No. MP-2010-013

This matter is before the Commission on respondent's failure to respond to Order No. 12,395, served May 6, 2010, which directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1314.

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. 1314 for a minimum of \$1.5 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. 1314 was rendered invalid on February 23, 2010, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 12,314, served February 23, 2010, noted the automatic suspension of Certificate No. 1314 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1314, and gave respondent 30 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. 1314.

The order also noted that respondent had neither filed its 2010 annual report nor paid its 2010 annual fee as required by Regulation Nos. 60-01 and 67-02 and gave respondent 30 days to comply and to pay the \$200 in associated late fees under Regulation No. 67-03(a),(b).

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

Respondent paid all outstanding fees and filed an acceptable 2010 annual report on March 24, 2010. Respondent thereafter submitted a \$1.5 million primary WMATC Insurance Endorsement on March 31, 2010, and the suspension was lifted on April 2, 2010, in Order No. 12,353, but because the effective date of the new endorsement is April 9, 2010, instead of February 23, 2010, the order gave respondent 30 days to verify cessation of operations as of February 23, 2010, in accordance with Regulation No. 58-14. And because respondent's only tariff is for service rendered to the public, the order gave respondent 30 days to corroborate the verification with copies of respondent's pertinent business records. Respondent did not respond.

Because respondent failed to verify cessation of operations on and after the suspension date and failed to produce any documents, Order No. 12,395, served May 6, 2010, gave respondent 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1314, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed in violation of Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding. Respondent has yet to respond to Order No. 12,395.

II. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.³

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.⁴

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁵ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by intentional or careless disregard or plain indifference.⁶

Because respondent failed to respond to Order Nos. 12,353 and 12,395 and has offered no explanation for this failure, and because respondent's replacement WMATC Endorsement has been canceled effective

³ Compact, tit. II, art. XIII, § 6(f).

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re Dynasty Unltd., Inc.*, No. MP-09-131, Order No. 12,316 (Feb. 24, 2010).

⁶ *Id.*

June 16, 2010, and has not been replaced,⁷ we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250⁸ and revoke Certificate No. 1314.⁹

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and orders issued in this proceeding.

2. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 1314 is hereby revoked for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, Regulation No. 58, and orders issued in this proceeding.

3. That within 30 days from the date of this order respondent shall:

- a. pay to the Commission by money order or check, the sum of two hundred fifty dollars (\$250);
- b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- c. file a notarized affidavit and supporting photograph(s) with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 1314 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

⁷ In re Addis Transp., Inc., No. MP-10-013, Order No. 12,450 (June 17, 2010).

⁸ See Order No. 12,316 (same).

⁹ See *id* (same).