

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,546

IN THE MATTER OF:

Served September 14, 2010

PARAMED MEDICAL TRANSPORTATION,) Case No. MP-2010-015
INC., Trading as PARA-MED, WMATC)
No. 206, Investigation of Violation)
of Regulation No. 61 and Operation)
of Unsafe Vehicles)

This matter is before the Commission on respondent's response to Order No. 12,326, served March 5, 2010. The order directed respondent to submit a list of its current vehicles and copies of the registration cards and safety inspection certificates for those vehicles within 15 days. The order also directed respondent to present all of its vehicles for inspection within 30 days.

I. BACKGROUND

On July 27, 2009, a Commission staff member observed a vehicle being used in apparent for-hire operations in the Metropolitan District. The vehicle did not display the carrier's name and WMATC number as required by Commission Regulation No. 61, but staff eventually determined that the vehicle was registered to respondent.

On November 2, 2009, staff wrote to respondent requesting that respondent submit a list of its current vehicles on or before November 16, 2009, and that respondent present its vehicles for inspection on or before November 30, 2009. Staff also requested that respondent produce copies of any and all safety inspection certificates for vehicles not displaying a safety inspection sticker.

On November 16, 2009, respondent produced a list of 15 vehicles and copies of the corresponding registration cards. The vehicle observed by staff was omitted from the list, and the registration was not produced. Respondent explained that the vehicle "was being used only as a temporary substitute and has since been retired." Respondent also produced a safety inspection certificate showing that one of the 15 vehicles had passed a safety inspection within the past twelve months. Over the next two weeks, respondent submitted 13 of the remaining 14 vehicles for safety inspection.¹ Only three passed. Respondent was granted an extension of time to make necessary repairs, but as of March 5, 2010 - more than three months after staff first wrote to respondent - the record showed that six of respondent's vehicles had not passed a safety inspection within the past twelve months.

¹ Respondent says it submitted 14, but the Commission only has evidence of 13.

Order No. 12,326 accordingly initiated this investigation, and respondent was directed to submit a current vehicle list and copies of the corresponding registration cards and safety inspection certificates within 15 days. The order also directed respondent to present all of its vehicles for inspection by Commission staff within 30 days. Finally, the order stipulated that certain of respondent's vehicles that had failed inspection in November 2009 and had not passed a safety inspection thereafter be ordered out of service until such time as they passed inspection by Commission staff.

II. RESPONSE TO ORDER NO. 12,326

Respondent filed a 17-vehicle list and copies of registrations and safety certificates on March 25, 2010. Respondent filed copies of registrations for all vehicles on the list and for one vehicle not on the list, a 2001 Dodge with VIN ending 532630, bringing to 18 the total number of vehicles reported by respondent.

All vehicles are registered to applicant except one, a 2004 Freightliner with VIN ending 643880 and registered to Mehdi Warkiani Ebrahimi.

Respondent filed safety inspection certificates for all 17 vehicles on the list but not for the 2001 Dodge omitted from the list.

Respondent presented all but two of its vehicles for inspection by staff within the allotted 30 days. The two vehicles that were not presented for inspection by staff are as follows:

2001 Dodge Ram, VIN ending 532630 - plus no safety certificate
2004 Freightliner, VIN ending 583378

Of the 16 vehicles presented for inspection, 13 passed and 3 failed. The 3 vehicles that failed and the defects noted during inspection are as follows:

2004 Freightliner, VIN ending 643880 - no lease
2005 Dodge Caravan, VIN ending 157339 - no for-hire plates
2002 Freightliner, VIN ending 272349 - ambulance plate

III. FINDINGS

A. We find that respondent failed to file its vehicle list, registrations, and safety inspection certificates on or before the March 22, 2010, deadline and that this constitutes a violation of Order No. 12,326.²

B. We find that by omitting respondent's 2001 Dodge, VIN ending 532630, respondent filed an incomplete list of current vehicles and that this constitutes a violation of Order No. 12,326.

² Technically the deadline was March 20, 2010, but because March 20 fell on a Saturday, respondent had until March 22 under Commission Rule No. 7-01 to file its vehicle list, registrations, and safety inspection certificates.

C. We find that by omitting respondent's 2001 Dodge, VIN ending 532630, respondent failed to file safety inspection certificates for all of its vehicles and that this constitutes a violation of Order No. 12,326.

D. We find that by withholding two vehicles from inspection, the 2001 Dodge, VIN ending 532630, and the 2004 Freightliner, VIN ending 583378, respondent failed to present all vehicles for inspection by Commission staff on or before the April 5, 2010, deadline and that this constitutes a violation of Order No. 12,326.³

E. We find that respondent is not in compliance with Commission Regulation No. 62-02, which states that:

No carrier subject to the jurisdiction of this Commission may charter, rent, borrow, lease, or otherwise operate in revenue service any motor vehicle to which such carrier does not hold title, except in accordance with this regulation. No carrier subject to the jurisdiction of this Commission shall operate any motor vehicle(s) as lessee thereof unless the contract of lease has been approved by the Commission.

According to the registration card for respondent's 2004 Freightliner, VIN ending 643880, that vehicle is registered to someone other than respondent, Mehdi Warkiani Ebrahimi. The Commission has no record of approving a lease for this vehicle.

F. We find that respondent is not in compliance with local for-hire vehicle registration laws as required under the Compact.⁴ When presented for inspection by Commission staff, respondent's 2005 Dodge Caravan, VIN ending 157339, displayed a Maryland license plate number of 8EWX94, and the registration for that vehicle displayed a Class code of "A". The Maryland Motor Vehicle Administration (MVA) website identifies five different types of "for hire" vehicles: Taxicabs (Class B); Sedan Service Vehicles (Class B); Vans Used to Transport Individuals with Disabilities (Class PDP); Limousines (Class Q); and Buses (Class P).⁵

G. We find that respondent is not in compliance with Regulation No. 63-05, which states that: "No carrier may hold itself out to the public as being capable of rendering life support service." According to documents furnished by respondent, respondent's 2002 Freightliner, VIN ending 272349, has been registered with the Maryland MVA as an "Emergency Vehicle" for use in "Ambulance" operations. When presented

³ Technically the deadline was April 4, 2010, but because April 4 fell on a Sunday, respondent had until April 5 under Commission Rule No. 7-01 to present all of its vehicles.

⁴ See *In re Chika Transport Serv., Inc.*, No. MP-02-124, Order No. 7173 at 5 (May 7, 2003) (Compact contemplates carrier compliance with basic vehicle registration laws).

⁵ See <http://www.mva.maryland.gov/AboutMVA/INFO/27300/27300-26T.htm>; http://www.mva.maryland.gov/Resources/DARS_User_Guide.pdf.

for inspection by Commission staff, "WMATC 206" was displayed on the outside of this vehicle.

IV. OUT OF SERVICE ORDER

Respondent shall immediately remove all indicia of WMATC authority from the 2002 Freightliner registered as an ambulance, VIN ending 272349. Respondent shall present this vehicle for inspection by Commission staff within 15 days. Henceforth, respondent shall not use this vehicle in WMATC operations.

Respondent shall immediately remove from WMATC service the two other vehicles that failed inspection by Commission staff and the two vehicles not presented for inspection by Commission staff. Respondent shall verify compliance with this requirement within 10 days. Respondent shall not return these four vehicles to service unless and until they pass inspection by Commission staff, as confirmed in writing by the Commission's Executive Director.

V. RETURN TO SERVICE ORDER

Respondent may return to service the following vehicles ordered out of service by Order No. 12,326:

2005 Freightliner, VIN ending 761306
2006 Freightliner, VIN ending 952242
2004 Freightliner, VIN ending 583338

VI. SHOW CAUSE ORDER

The Compact provides that 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.⁶

In addition, 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.⁷

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁸ 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.⁹

Respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 206, for respondent's knowing and

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

⁷ Compact, tit. II, art. XI, § 10(c).

⁸ *In re Emanco Transp. Inc*, No. MP-07-245, Order No. 11,304 (Apr. 24, 2008); *In re Junior's Enters., Inc.*, No. MP-01-103, Order No. 6549 (Feb. 21, 2002).

⁹ Order Nos. 11,304; 6549.

willful violations of the Compact, Commission Regulations, and Order No. 12,326.¹⁰

THEREFORE, IT IS ORDERED:

1. That respondent shall: (a) immediately remove all indicia of WMATC authority from the 2002 Freightliner registered as an ambulance, VIN ending 272349; (b) present this vehicle for inspection by Commission staff within 15 days; and (c) henceforth not use this vehicle in WMATC operations.

2. That respondent shall: (a) immediately remove from WMATC service the following four vehicles; (b) verify compliance with this requirement in writing within 10 days; and (c) not return the following four vehicles to service unless and until they pass inspection by Commission staff, as confirmed in writing by the Commission's Executive Director.

2001 Dodge, VIN ending 532630 - not presented/no safety cert.
2004 Freightliner, VIN ending 583378 - not presented
2004 Freightliner, VIN ending 643880 - no lease
2005 Dodge, VIN ending 157339 - no for-hire plates

3. That respondent may return to service the following three vehicles ordered out of service by Order No. 12,326:

2005 Freightliner, VIN ending 761306
2006 Freightliner, VIN ending 952242
2004 Freightliner, VIN ending 583338

4. That within 30 days from the date of this order, respondent shall show cause why the Commission should not assess a civil forfeiture and/or suspend or revoke Certificate No. 206 for respondent's knowing and willful violation of the Compact, Commission Regulation Nos. 62 & 63, and Order No. 12,326.

5. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER, HOLCOMB, AND KUBLY:



William S. Morrow, Jr.
Executive Director

¹⁰ See *In re Emanco Transp. Inc.*, No. MP-07-245, Order No. 10,925 (Nov. 20, 2007) at 3 (same); Order No. 6549 at 4-5 (assessing forfeiture for failure to produce vehicles).