

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,597

IN THE MATTER OF:

Served October 25, 2010

L & J LIMO SERVICES LLC, Suspension)
and Investigation of Revocation of)
Certificate No. 1605)

Case No. MP-2010-017

This matter is before the Commission on respondent's response to Order No. 12,344, served March 26, 2010, which directed respondent to verify cessation of operations as of March 6, 2010, and corroborate the verification with copies of its pertinent business records.

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. 1605 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. 1605 was rendered invalid on March 6, 2010, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 12,331, served March 8, 2010, noted the automatic suspension of Certificate No. 1605 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1605, 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. 1605.

Respondent submitted a new \$1.5 million primary WMATC Insurance Endorsement on March 9, 2010, and paid the \$50 late fee on March 24, 2010. The suspension was lifted as a result in Order No. 12,344 on March 26, 2010, in accordance with Regulation No. 58-13.

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

The effective date of the new endorsement is March 9, 2010, instead of March 6, 2010. 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.

Order No. 12,344 accordingly directed respondent to: (1) submit an affidavit stating whether respondent operated during the period beginning March 6, 2010, and ending March 26, 2010; and (2) produce copies of respondent's business records for the period beginning January 1, 2010, and ending March 26, 2010.

II. RESPONSE TO ORDER NO. 12,344

On March 30, 2010, respondent submitted the statement of Learie Bruce, who according to respondent's 2010 WMATC annual report is respondent's president. His statement reads as follows:

I am writing this letter to inform you that from 3/06/10 thru 3/09/10 I didn't work nor Their wasn't any monetary transaction performed during those period. I have provided you with my trip manifest, my daily Dairy and also my Credit Card Statement for the period of 02/17/10 thru 03/16/10 to proof too you that I was total out of operation until I reinstated my Insurance Policy on the 03/09/10.

Respondent's document production consists of the following: (1) a single "Merchant Financial Activity Statement" for the period February 17, 2010, through March 16, 2010; (2) two "Daily Trip Sheets", one for March 5, 2010, and one for March 10, 2010; and (3) two spiral binder calendar pages covering the period from March 4, 2010, through March 10, 2010.

III. DISCUSSION

We find that Mr. Bruce's statement is deficient in several respects. First, it is not under oath as required by Commission Rule No. 4-06. Second, it does not fully cover the March 6 to March 26, 2010, period stipulated in Order No. 12,344. Third, it speaks only to Mr. Bruce's activities, not respondent's.

We further find that respondent's document production is likewise deficient. None of the document categories fully cover the January 1, 2010, to March 26, 2010, period stipulated in Order No. 12,344 - a total of 85 days. The merchant statement covers only 28 of the 85 days. The daily trip sheets cover only two of the 85 days. The calendar pages cover only seven of the 85 days.

Furthermore, Order No. 12,344 specifically directed respondent to produce customer contracts, customer invoices, and bank statements. Respondent has not produced any such records and has failed to explain why such documents were not produced.

IV. ORDER TO SHOW CAUSE

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 Each day of the violation constitutes a separate violation.⁴

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.⁵

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁶ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard of whether or not one has the right so to act.⁷

Considering that respondent has not denied operating at all times during the March 6 to March 26, 2010, suspension period,⁸ and considering that respondent has apparently failed to produce all pertinent business records, 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. 1605, for knowingly and willfully transporting passengers for hire between points in the Metropolitan District while suspended and for knowingly and willfully failing to produce documents as directed by Order No. 12,344.⁹

THEREFORE, IT IS ORDERED:

1. That respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent for

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

⁴ Compact, tit. II, art. XIII, § 6(f)(ii).

⁵ Compact, tit. II, art. XI, § 10(c).

⁶ *In re Couples, LLC, t/a Couples Limos.*, No. MP-09-134, Order No. 12,330 (Mar. 8, 2010).

⁷ *Id.*

⁸ Indeed, Mr. Bruce admits resuming operations on March 9, 2010.

⁹ See *In re Heaven on Wheels LLC*, No. MP-07-238, Order No. 11,110 (Jan. 29, 2008) (same).

knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

2. That respondent shall have 30 days to show cause why the Commission should not suspend or revoke Certificate No. 1605 for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

3. 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