

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,657

IN THE MATTER OF:

Served December 17, 2010

C.P.R. MEDICAL TRANSPORTATION LLC,)
WMATC No. 1551, Investigation of)
Violation of Article XI, Section 14)
and Article XII, Section 3 of the)
Compact, Regulation Nos. 55, 58,)
61, 62, and Improperly Registered)
Vehicles)

Case No. MP-2010-053

This matter is before the Commission on respondent's response to Order No. 12,454, served June 23, 2010, directing respondent to present its vehicles for inspection and produce certain documents.

One of the documents produced by respondent is a 2009 federal income tax return. The return contains substantial entries for depreciation, automobile and truck expenses, outsource payments, and loans receivable, but no entries for employee compensation and an insubstantial entry for leased vehicles expense. Inasmuch as leased vehicles comprised a significant portion of respondent's fleet in 2009, as evidenced by a number of leases produced in response to Order No. 12,454, the Commission is concerned that these tax return entries and the lack of any entry for employee compensation may reflect the existence of a prohibited relationship between respondent and the lessors of respondent's vehicles.

Under Commission Regulation No. 62-08:

The lease of a vehicle with a driver provided by the same lessor is prohibited, except as provided by Regulation 62-12(c)(1). For the purpose of this regulation, a driver provided by the lessor shall be deemed to include the lessor, his employees, any person controlling, controlled by, or under common control with the lessor, and any person in a contractual relationship with the lessor. The lessee may operate a leased vehicle with a qualified driver who (a) is a bona fide employee of the lessee or (b) is obtained from a personnel supplier having no prohibited relationship with the lessor.

Regulation No. 62-08 is designed to prevent carriers without WMATC authority from operating in the Metropolitan District through

the guise of a so-called lease arrangement.¹ It reflects the rebuttable presumption that an entity which furnishes both a vehicle and a driver under a lease agreement is actually a passenger carrier.²

In the interest of ensuring full and fair consideration of respondent's compliance with the Compact and Regulation No. 62-08, respondent is directed to furnish all records supporting the aforementioned entries in respondent's 2009 federal income tax return, including, but not limited to all Forms 1096 and 1099 and other records of payments to drivers and vehicle owners.

Respondent also is directed to produce the corresponding records for 2010, year to date.

Finally, respondent is directed to produce a list of drivers that operated vehicles under Certificate No. 1551 in 2009, a list of drivers that have operated vehicles under Certificate No. 1551 in 2010, and related information.

THEREFORE, IT IS ORDERED:

1. 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 that support the following entries in respondent's 2009 federal income tax return:

- a. depreciation;
- b. automobile and truck expenses;
- c. outsource payments;
- d. loans receivable; and
- e. leased vehicles expense.

2. That respondent's production of documents supporting its 2009 federal income tax return shall include but not be limited to all Forms 1096 and 1099, and other records of payments to drivers and vehicle owners, for 2009.

3. 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 that relate to the

¹ *In re Orbital Shuttle, Inc.*, No. AP-99-60, Order No. 5736 (Nov. 2, 1999).

² *Id.*

following financial outlays for 2010, year to date, as of the date of this order:

- a. depreciation expense;
- b. automobile and truck expenses;
- c. outsource payments;
- d. loans receivable;
- e. leased vehicles expense;
- f. payments to drivers; and
- g. payments to vehicle owners.

4. That within thirty days from the date of this order, respondent shall produce:

- a. a list of all drivers that operated vehicles under Certificate No. 1551 in 2009;
- b. a list of all drivers that have operated vehicles under Certificate No. 1551 in 2010, year to date, as of the date of this order;
- c. with regard to respondent's drivers in 2009 and 2010, a written statement: (i) identifying each driver not paid directly by respondent, if any; (ii) the identity of whom respondent paid for each such driver's services; (iii) the vehicle or vehicles each such driver operated and, if leased by respondent, the identity of the lessor or lessors; and (iv) the dates of each such driver's service.

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



William S. Morrow, Jr.
Executive Director