

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,688

IN THE MATTER OF:

Served January 11, 2011

TRANSPORT & TOURS, LLC, Suspension)
and Investigation of Revocation of)
Certificate No. 1602)

Case No. MP-2010-072

This matter is before the Commission on respondent's response to Order No. 12,632, served November 19, 2010, revoking Certificate No. 1602 pursuant to Article XI, Section 10(c), of the Compact.

Under the Compact, a certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.¹ Commission Regulation No. 58 required respondent to insure the revenue vehicles operated under Certificate No. 1602 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. 1602 was rendered invalid on September 7, 2010, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 12,538, served September 7, 2010, gave respondent thirty days to replace the expired endorsement and pay the \$50 late fee imposed by Regulation No. 67-03(c) or face revocation of Certificate No. 1602.

More than 10 weeks later, having received neither the late fee nor the necessary endorsement(s), the Commission revoked Certificate No. 1602 in Order No. 12,632 for respondent's willful failure to comply with Regulation No. 58. Respondent subsequently paid the late fee and filed a \$1.5 million primary WMATC Endorsement and a request for reinstatement of Certificate No. 1602.

Title II of the Compact, Article XIII, Section 4(a), provides that: "A party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration."

¹ Compact, tit. II, art. XIII, § 7(g).

Respondent's application for reconsideration was timely filed on December 17, 2010, but does not allege any error on the part of the Commission. The application, therefore, is denied.

Although the Commission may reopen this proceeding on its own initiative pursuant to Rule No. 26-04, we do not believe that would be in the public interest at this time on this record.

Commission records show that respondent was first granted operating authority on April 6, 2009, but the issuance of a certificate of authority was expressly made contingent on applicant filing additional documents and passing a vehicle inspection conducted by Commission staff.² Applicant failed to satisfy the conditions for issuance of operating authority within the time allotted, thereby voiding the Commission's approval.³

Respondent reapplied and was granted operating authority again on December 24, 2009.⁴ Five months passed before respondent began complying with the conditional grant order. Certificate No. 1602 was eventually issued June 22, 2010.

Respondent thus had held Certificate No. 1602 for only 6 weeks when its insurance was canceled on August 5, 2010, and only 11 weeks when its authority was suspended on September 7, 2010. Furthermore, given the December 9, 2010, effective date of the new WMATC Endorsement, it would appear that respondent waited 3 months before replacing coverage.

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.

Respondent has filed a sworn statement asserting that: "Transport and Tours, LLC has suspended its operation since September 7, 2010 when the insurance coverage was cancelled."

² See *In re Medic-Port, LLC, Now Known as Transport & Tours, LLC*, No. AP-09-021, Order No. 11,918 (Apr. 6, 2009) (conditionally granting Certificate No. 1602).

³ See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66 (failure to comply with conditions of grant within 180 days voids approval).

⁴ See *In re Transport & Tours, LLC*, No. AP-09-121, Order No. 12,256 (Dec. 24, 2009) (conditionally granting Certificate No. 1602).

Respondent also has filed copies of bank statements and checking account deposit items for the September-November 2010 period.

One of the deposit items is a \$1,634 check dated November 17, 2010, from LogistiCare Solutions, LLC, which brokers non-emergency medical transportation in the Washington Metropolitan Area.⁵ Respondent offers no explanation regarding the nature of the payment, but given LogistiCare's status as a non-emergency medical transportation broker and respondent's publication of "wheelchair accessible" rates prior to revocation, respondent's receipt of the LogistiCare check more than two months after suspension of Certificate No. 1602 would appear to be inconsistent with the assertion that respondent has not operated since September 7, 2010.

Accordingly, the application for reconsideration shall be denied, and this proceeding shall not be reopened.⁶

THEREFORE, IT IS ORDERED: That the application for reconsideration is denied without prejudice to respondent's right to reapply for operating authority at a later date.

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



William S. Morrow, Jr.
Executive Director

⁵ See <http://www.logisticare.com/>; see also *In re Exact Enters. Inc.*, No. MP-10-049, Order No. 12,459 (June 25, 2010) (requiring confirmation from LogistiCare of timely cessation of client transportation by respondent); *In re Angel Enterprise Inc, t/a The Angels*, No. MP-10-028, Order No. 12,398 (May 7, 2010) (same); *In re Abebe Teklemariam Alemu, t/a Express Ride*, No. MP-08-172, Order No. 11,481 (July 21, 2008) (same).

⁶ See *In re Fon Pius Nde t/a Piusmed World Transp.*, No. MP-07-187, Order No. 11,421 (June 23, 2008) (declining to reopen where no error alleged and evidence not supportive of respondent's claim of discontinuing operations upon suspension).