

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,723

IN THE MATTER OF:

Served February 15, 2011

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

Case No. MP-2010-015

This matter is before the Commission on respondent's failure to fully respond to Order No. 12,546, served September 14, 2010, which in pertinent part 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. 206, for respondent's knowing and willful violations of the Compact, Commission Regulations, and Order No. 12,326.

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 said it submitted 14, but the Commission only had 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 were registered to applicant except one, a 2004 Freightliner. 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. Of the 16 vehicles presented for inspection, 13 passed and 3 failed. The 3 vehicles that failed and the defects noted during inspection were 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 IN ORDER NO. 12,546

Based on the record as described above, the Commission made the following findings in Order No. 12,546:

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.

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

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.

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

Based on these findings, Order No. 12,546 ordered certain vehicles out of WMATC service and directed respondent to show cause

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.

why the Commission should not assess a civil forfeiture against respondent and/or suspend or revoke Certificate No. 206.⁶

IV. ASSESSMENT OF FORFEITURE

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.⁷

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.⁸

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁹ 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.¹⁰

Respondent complied with the out of service order and corrected the noted deficiencies as verified by Commission staff. Respondent, however, did not respond in writing to the portion of the order directing respondent to 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 and 63, and Order No. 12,326.

We find that respondent's compliance with the out of service provisions of Order No. 12,546 constitutes good cause for not suspending or revoking Certificate No. 206. Respondent has not shown cause, however, why the Commission should not assess the following civil forfeitures for the following four violations:

1. For knowingly and willfully violating Order No. 12,326 by failing to timely produce documents, (Findings A, B, C) - \$250.¹¹

⁶ Order No. 12,546 also allowed respondent to return to service several vehicles that had previously been ordered out of service.

⁷ Compact, tit. II, art. XIII, § 6(f).

⁸ Compact, tit. II, art. XI, § 10(c).

⁹ *In re Jet Tours USA, Inc.*, No. MP-09-110, Order No. 12,443 (June 15, 2010); *In re Chukwuneny Nnakwu, t/a Progressive Medical Care Services*, No. MP-08-242, Order No. 12,121 (Aug. 18, 2009); *In re Executive Tech. Solutions, LLC, v. Vicar Limousine Service, Inc.*, No. FC-07-03, Order No. 11,680 (Nov. 12, 2008); *In re Metro Health-Tech Servs., Inc.*, No. MP-08-057, Order No. 11,677 (Nov. 12, 2008).

¹⁰ Order Nos. 12,443; 12,121; 11,680; 11,677.

¹¹ See Order Nos. 12,443 (same); 12,121 (same).

2. For knowingly and willfully violating Order No. 12,326 by failing to timely present all vehicles for inspection, (Finding D) - \$1,000.¹²
3. For knowingly and willfully violating Regulation No. 62-02 by failing to timely file a lease for the 2004 Freightliner, (Finding E) - \$250.¹³
4. For knowingly and willfully violating Regulation No. 63-05 by displaying "WMATC 206" on a vehicle registered as an ambulance, (Finding G) - \$250.¹⁴

VII. PROBATION

In addition to assessing the above civil forfeitures, we shall place respondent on probation for one year to more fully ensure future compliance with the Compact and Commission requirements thereunder.¹⁵

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a combined civil forfeiture against respondent in the amount of \$1,750 for knowingly and willfully violating Order No. 12,326 and Regulation Nos. 62-02 and 63-05.

2. That respondent is hereby directed to pay to the Commission within 30 days, by check or money order, the sum of one thousand seven hundred fifty dollars (\$1,750).

3. That Certificate No. 206 shall be subject to suspension and revocation pursuant to Article XI, Section 10(c) of the Compact if respondent fails to timely comply with the requirements of this order.

4. That respondent shall serve a one-year period of probation. A willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, during the period of probation shall constitute grounds for immediate suspension and/or revocation of Certificate No. 206, regardless of the nature and severity of the violation.

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



William S. Morrow, Jr.

¹² See Order No. 11,677 (same).

¹³ See Order Nos. 12,121 (same); 11,680 (same).

¹⁴ See Order No. 12,443 (same as to Regulation No. 63-04(a)).

¹⁵ See Order Nos. 12,443 (same); 12,121 (same).

Executive Director