

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,762

IN THE MATTER OF:

Served March 14, 2011

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, and Order No. 12,657, served December 17, 2010, directing respondent to produce documents and present vehicles for inspection.

**I. BACKGROUND**

C.P.R. Medical Transportation LLC, respondent, holds Certificate of Authority No. 1551 issued by this Commission (WMATC) pursuant to the Washington Metropolitan Area Transit Regulation Compact.<sup>1</sup> According to C.P.R.'s 2010 annual report and records obtained by the Commission from the Maryland Motor Vehicle Administration (MVA), C.P.R. operated 25 vehicles as of June 23, 2010, but owned only 3. The remaining 22 vehicles were registered to other entities. Only one of the 22 was covered by a lease on file with the Commission as required by Regulation No. 62, a 2004 Toyota Sienna registered to Ravi Gogna.

Among the owners of the other vehicles were a carrier whose WMATC Certificate of Authority had been revoked (US Transcare Inc.)<sup>2</sup> and a company that had twice applied for but was denied a WMATC certificate of authority for failure to establish compliance fitness (Care Transport Inc.)<sup>3</sup>.

Two vehicles were registered in the name of Kirti Vindray Mehta, and a separate vehicle was registered in the name of US Transcare Kirti.

---

<sup>1</sup> Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

<sup>2</sup> US Transcare Inc. held WMATC Certificate No. 1002 from 2005 until 2007, when it was revoked in part for that company's failure to furnish evidence that it ceased operating during a 54-day period when it lacked insurance coverage. *In re US Transcare Inc.*, No. MP-06-153, Order No. 10,516 (June 1, 2007).

<sup>3</sup> *In re Care Transport Inc.*, No. AP-09-016, Order No. 11,975 (May 8, 2009); *In re Care Transport Inc.*, No. AP-08-068, Order No. 11,551 (Sept. 4, 2008).

Nine vehicles were registered in the name of Adem H Adem DBA Care Transport.<sup>4</sup>

Beltway Metro was the registered owner of four C.P.R. vehicles. Beltway Metro held WMATC Certificate No. 1163 from 2007 to 2009 when it was terminated at Beltway Metro's request<sup>5</sup>

All 25 vehicles reported by C.P.R. were listed on a vehicle schedule obtained from C.P.R.'s insurance company. However, Maryland MVA registration records indicated that three of those vehicles were covered by second insurance policies, raising questions about whether C.P.R. was operating those vehicles or someone else. In addition, the vehicle schedule obtained from C.P.R.'s insurance company included two vehicles that had not been reported to the Commission and that Maryland MVA records showed were covered under second insurance policies.

Eight of the 25 vehicles reported by C.P.R. were not registered for hire as required by local vehicle registration laws.

On April 16, 2010, Commission staff observed a C.P.R. vehicle operating with removable magnetic signs displaying C.P.R.'s name and WMATC number. Commission Regulation No. 61-03 states that such markings must be permanently displayed.

Finally, C.P.R. transports District of Columbia Medicaid passengers under a contract with Medical Transportation Management, Inc. (MTM). As of June 23, 2010, C.P.R. had a valid general tariff on file with the Commission for service to the general public but no contract tariff on file for service to Medicaid passengers under the MTM contract.

## **II. INITIATION OF INVESTIGATION**

The Commission initiated this investigation in Order No. 12,454, served June 23, 2010, to determine whether C.P.R. knowingly and willfully violated Article XI, Section 14 of the Compact and Regulation No. 55 (tariffs), Regulation No. 62 (vehicle leases), Regulation No. 61 (vehicle markings), and Article XII, Section 3 of the Compact (consolidations, mergers, and acquisitions of control among carriers). This investigation also was initiated to determine whether C.P.R. was in compliance with Regulation No. 58 (insurance), and local vehicle registration laws.

The order directed respondent to ensure that its operations were in compliance with Regulation Nos. 55 (Tariffs) and 62 (Leases) within 30 days or show cause why the Commission should not assess a civil forfeiture and/or suspend or revoke Certificate No. 1551.

---

<sup>4</sup> Adem H Adem at one time served as the East Coast President of MV Transportation, Inc., WMATC Carrier No. 764.

<sup>5</sup> *In re Beltway Metro, LLC*, No. AP-09-55, Order No. 12,017 (June 2, 2009).

The order also revoked respondent's WMATC Insurance Endorsement and gave respondent 30 days to ensure that all vehicles were reported to the issuer of respondent's WMATC Endorsement and that all duplicative policies were cancelled.

The order further gave respondent 30 days to produce certain documents, surrender all removable vehicle displays, and present all vehicles for inspection by Commission staff.

Finally, the order gave respondent 15 days to request an oral hearing limited in scope to the tariff and lease issues.

### **III. RESPONSE AND FINDINGS**

Respondent did not request a hearing but did request an extension of time to respond. The Commission extended the response deadline to August 31, 2010, in Order No. 12,504, served August 10, 2010. Respondent largely complied with the extended deadline - but not entirely. Later, the Commission directed respondent to produce additional documents in Order No. 12,657, served December 17, 2010. Respondent filed its response to Order No. 12,657 on January 18, 2011.

The record shows that respondent timely brought its operations into compliance with the Commission's tariff and insurance requirements and that there is no evidence of any unlawful merger. The issues regarding vehicle leases, markings, safety certificates, and registration laws, however, were not completely resolved as of the August 31 deadline and require some discussion.

This order also discusses respondent's failure to produce all documents and failure to timely present all vehicles for inspection as directed. And this order discusses the regulatory compliance issues raised by respondent's practice of hiring non-employee managers and respondent's association with persons who have a history of regulatory violations.

#### **A. Vehicle Leases**

Respondent timely filed all of the leases it was bound to file except two: the leases for vehicle nos. 2 and 6.<sup>6</sup> These vehicles were registered to "US Transcare" and "US Transcare Kirti", respectively. Respondent stated in an August 31, 2010, filing that vehicle no. 2 was being withdrawn from service and would not be returned to service until after the title/lease issues had been resolved. Respondent filed a lease for vehicle no. 2 on October 19, 2010. The August 31 filing acknowledged the title/lease issue with vehicle no. 6 but said nothing about this vehicle being removed from service. No lease has been filed yet for vehicle no. 6.

#### **B. Vehicle Markings**

---

<sup>6</sup> All vehicle nos. referenced in this order correspond to the vehicle numbers in respondent's Updated WMATC Vehicle List submitted July 23, 2010, and appended to this order.

Respondent presented six vehicles for inspection by Commission staff on July 23, 2010: vehicle nos. 7, 8, 14, 21, 23, and 29. All six failed for the same reason. The name displayed on all six was "CPR Medical Transport LLC" instead of respondent's actual name "C.P.R. Medical Transportation LLC". Vehicle no. 26 was presented for inspection on August 10, 2010, and failed for the same reason. Vehicle no. 18 was presented for inspection on August 23, 2010, and failed for the same reason. Vehicle no. 28 was presented for inspection on August 25, 2010, and failed for the same reason. Vehicle nos. 1 and 3 were presented for inspection on August 27, 2010, and failed for the same reason.<sup>7</sup>

Vehicle no. 10 was presented for inspection on August 23, 2010, and failed for displaying respondent's name and WMATC number by means of a removable magnetic sign - despite respondent's assurance on July 21, 2010, that all such signs were being surrendered that day and that only permanent markings would be used in the future.<sup>8</sup>

#### **C. Vehicle Safety Inspection Certificates**

Respondent timely produced current vehicle safety inspection certificates for all vehicles except one, vehicle no. 2. The safety inspection certificate for vehicle no. 2 was not produced until October 19, 2010. The inspection date was September 30, 2010. Although respondent withdrew this vehicle from service on August 31, 2010, for title/lease issues, this does not explain respondent's failure to produce the safety inspection certificate on time as respondent had done with respect to vehicle no. 24, which was removed from service on August 31, 2010, for the same reason, and as respondent had done with respect to vehicle no. 6 which also had title/lease issues.

#### **D. Vehicle Registration Laws**

Vehicle nos. 5 and 11 were presented for inspection by Commission staff on August 27, 2010, and August 25, 2010, respectively. Both failed for not displaying a front license plate.

#### **E. Failure to Produce Documents**

Order No. 12,657, served December 17, 2010, directed respondent to produce certain documents, including

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.

---

<sup>7</sup> The name displayed on vehicle no. 1 was slightly different: "CPR Non Emergency Medical Transport".

<sup>8</sup> Commission staff seized the sign.

Respondent has identified its drivers for both years and has explained that respondent paid all drivers, but respondent has not produced a statement linking each driver with the vehicle(s) he/she operated and when.

#### **F. Failure to Timely Present Vehicles**

Respondent did not present vehicle no. 2 for inspection by Commission staff until October 25, 2010. Although respondent withdrew this vehicle from service on August 31, 2010, for title/lease issues, this does not explain respondent's failure to present it for inspection on time as respondent had done with respect to vehicle no. 24, which was removed from service on August 31, 2010, for the same reason, and as respondent had done with respect to vehicle no. 6 which also had title/lease issues.

As noted above, vehicle no. 26 was presented for inspection on August 10, 2010, and failed for not displaying respondent's name. This vehicle did not pass inspection by Commission staff until September 2, 2010.

#### **G. Use of Non-Employee Managers**

According to respondent's Report of Compliance submitted July 21, 2010, Mr. Basiru Dante was respondent's manager when the violations triggering this investigation occurred. And according to respondent's Report of Compliance submitted January 18, 2011, Mr. Dante has been replaced by Mr. Guled Abdulahi. Respondent's January 18 Report describes payments to managers as "Outsourcing" payments, not employee wages.

Inasmuch as respondent may avoid treating its personnel payments as employee wages for purposes of federal payroll tax laws only if respondent possesses "the right to control or direct only the result of the work and not the means and methods of accomplishing the result",<sup>9</sup> the issue of who is controlling respondent's vehicles becomes an issue. Respondent's extensive use of leased vehicles - including vehicles covered by leases bearing the signature of Mr. Abdulahi as lessor's representative - brings that issue to the fore.

#### **H. Use of Persons with a History of Regulatory Violations**

According to respondent's Report of Compliance submitted July 21, 2010, Mr. Kirti Mehta is respondent's president and formerly a member and shareholder of US Transcare Inc. As noted above, US Transcare Inc. held WMATC Certificate No. 1002 from 2005 until 2007, when it was revoked in part for that company's failure to furnish evidence that it ceased operating during a 54-day period when it lacked insurance coverage. This raises the issue of whether Mr. Mehta's control of respondent is in the public interest.

---

<sup>9</sup> I.R.S. Publication No. 15-A at 4.

According to respondent's Report of Compliance submitted January 18, 2011, respondent's current manager, Mr. Guled Abdulahi controls Care Transport, Inc. Care Transport applied for WMATC operating authority on March 28, 2008, but the application was denied on September 4, 2008, when evidence surfaced indicating that Care Transport had already commenced operations in the Metropolitan District notwithstanding a lack of WMATC operating authority.<sup>10</sup> Additional evidence of operations by Care Transport in the summer of 2008 came to light in a second Care Transport application in 2009. The second application was denied as well.<sup>11</sup> Yet more evidence of unlawful operations by Care Transport in 2008 materialized in another proceeding in 2010.<sup>12</sup>

Respondent's association with persons who have a history of regulatory violations and/or control companies with a history of regulatory violations raises obvious regulatory compliance issues for respondent.

#### **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.<sup>13</sup> Each day of the violation constitutes a separate violation.<sup>14</sup>

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.<sup>15</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>16</sup> The term "willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard whether or not one has the right so to act.<sup>17</sup>

If, after hearing, the Commission finds that a respondent has violated a provision of the Compact or any requirement established

---

<sup>10</sup> *In re Care Transp. Inc.*, No. AP-08-068, Order No. 11,551 (Sept. 4, 2008).

<sup>11</sup> *In re Care Transp. Inc.*, No. AP-09-016, Order No. 11,975 (May 8, 2009).

<sup>12</sup> *In re Epps Transp. Co., Inc.*, No. AP-10-009, Order No. 12,457 (June 24, 2010).

<sup>13</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>14</sup> Compact, tit. II, art. XIII, § 6(f)(ii).

<sup>15</sup> Compact, tit. II, art. XI, § 10(c).

<sup>16</sup> *In re Paramed Medical Transp., Inc.*, No. MP-02-50, Order No. 6799 (Sept. 3, 2002).

<sup>17</sup> *Id.*

under it, the Commission shall: (i) issue an order to compel the respondent to comply with the Compact; and (ii) effect other just and reasonable relief.<sup>18</sup>

Respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture, suspend or revoke Certificate No. 1551, and/or effect other just and reasonable relief for respondent's knowing and willful violations of the Compact, Commission regulations, and the orders issued in this proceeding.

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 knowingly and willfully violating Article XI, Section 5(a), of the Washington Metropolitan Area Transit Regulation Compact, Commission Regulation Nos. 61 and 62, 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 of Authority No. 1551 for respondent's willful failure to comply with Article XI, Section 5(a), of the Washington Metropolitan Area Transit Regulation Compact, Commission Regulation Nos. 61 and 62, and the orders issued in this proceeding.

3. That respondent shall have 30 days to show cause why the Commission should not effect other just and reasonable relief for respondent's violation of Article XI, Section 5(a), of the Washington Metropolitan Area Transit Regulation Compact, Commission Regulation Nos. 61 and 62, and the orders issued in this proceeding.

4. 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

---

<sup>18</sup> Compact, tit. II, art. XIII, § 1(d).

Carrier Name: C.P.R. Medical Transportation LLC

Case Number: AP-2008-106

WMATC Certificate of Authority No.: 1551

UPDATED WMATC VEHICLE LIST

(Submitted July 23, 2010)

| FLEET No. | YEAR | MAKE     | VEHICLE VIN         | LICENSE PLATE | STATE REGISTERED | SEATING CAPACITY    |
|-----------|------|----------|---------------------|---------------|------------------|---------------------|
| 1         | 2006 | Ford     | 1FTNS24WX6HA97907   | 40803B        | MD               | 3 amb*<br>2 wheel** |
| 2         | 2006 | Ford     | 1FBSS31L56HA13029   | 44315B        | MD               | 4 amb 2 wheel       |
| 3         | 2006 | Ford     | 1FTNS24W46DB21951   | 40857B        | MD               | 6 amb 2 wheel       |
| 4         | 2004 | Dodge    | WD2PD644945695329   | 40514B        | MD               | 5 amb 2 wheel       |
| 5         | 2007 | Ford     | 2FMZA51637BA18694   | 40856B        | MD               | 7 amb               |
| 6         | 2006 | Ford     | 2FMZA516X6BA58284   | 44317B        | MD               | 7 amb               |
| 7         | 2003 | Toyota   | JTDBR32E030042696   | 44320B        | MD               | 4 amb               |
| 8         | 2008 | Ford     | 1FBSS31L 1 BDA25575 | 44150B        | MD               | 15 amb              |
| 9         | 2008 | Ford     | 1FBSS31L38DA27747   | 44157B        | MD               | 15 amb              |
| 10        | 2008 | Ford     | 1FBSS31L88DA06201   | 44154B        | MD               | 15 amb              |
| 11        | 2008 | Ford     | 1FBSS31L98DA09270   | 44151B        | MD               | 15 amb              |
| 12        | 2008 | Ford     | 1FBSS31L68DA25572   | 44156B        | MD               | 15 amb              |
| 13        | 2008 | Ford     | 1FBSS31L88DA17733   | 44153B        | MD               | 15 amb              |
| 14        | 2008 | Ford     | 1FBSS31L78DA24026   | 44155B        | MD               | 15 amb              |
| 15        | 2008 | Ford     | 1FBSS31L28DA09255   | 44049B        | MD               | 15 amb              |
| 16        | 2008 | Ford     | 1FBSS31L08DA09285   | 44152B        | MD               | 15 amb              |
| 17        | 2004 | Toyota   | 5TDZA23C84S065820   | 43909B        | MD               | 7 amb               |
| 18        | 2009 | Ford     | 1FTNS24W09DA88628   | 44316B        | MD               | 3 amb 2 wheel       |
| 19        | 2009 | Ford     | 1FTNS24W99DA88627   | 43611B        | MD               | 4 amb               |
| 20        | 2009 | Ford     | 1FTNS24W29DA88629   | 43612B        | MD               | 4 amb               |
| 21        | 2010 | Ford     | 3FAHP0GA3AR226523   | 47608B        | MD               | 4 amb               |
| 22        | 2010 | Ford     | 1FAHP3FN5AW154761   | 44321B        | MD               | 4 amb               |
| 23        | 2008 | Toyota   | 5TD2K23C38S186497   | 44322B        | MD               | 4 amb 1 wheel       |
| 24        | 2010 | Ford     | 2FMGK5CC5ABA71623   | 44319B        | MD               | 7 amb               |
| 25        | 2010 | Toyota   | 5TDKK4CC8AS337207   | 44318B        | MD               | 4 amb 1 wheel       |
| 26        | 2002 | Chrysler | 2C4GP44322R757951   | 44325B        | MD               | 7 amb               |
| 27        | 2010 | Ford     | 1FTSS3EL3ADA10572   | 44324B        | MD               | 5 amb 1 wheel       |
| 28        | 2002 | Dodge    | 2B4GP74L52R715966   | 44323B        | MD               | 7 amb               |
| 29        | 2010 | Ford     | 1FAHP2DW8AG157637   | H518857       | VA               | 4 amb               |
| 30        | 2010 | Ford     | 2FMGK5BC1ABA58224   | H518856       | VA               | 7 amb               |
| 31        | 2010 | Dodge    | 2D4RN4DE9AR248005   | H518858       | VA               | 3 amb 2 wheel       |

\*amb stands for ambulatory seat

\*\* wheel stands for a wheel-chair seat