

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,763

IN THE MATTER OF:

Served March 14, 2011

Application of NOLA BUS TOURS, )  
INC., for a Certificate of ) Case No. AP-2010-123  
Authority -- Irregular Route )  
Operations )

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If the applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>1</sup> A determination of compliance fitness is prospective in nature.<sup>2</sup> The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.<sup>3</sup> Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.<sup>4</sup>

**I. HISTORY OF VIOLATIONS**

Applicant's operations manager, Mr. Larry Williams, has a history of regulatory violations dating back to before 1984.

Prior to 1984, Mr. Williams operated in the Metropolitan District as Tailgate Bus Service, Inc.<sup>5</sup> Neither Tailgate nor Mr. Williams possessed operating authority from this Commission.<sup>6</sup> In fact,

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<sup>1</sup> *In re Nur Corp.*, No. AP-10-178, Order No. 12,730 (Feb. 15, 2011).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *In re Monica Mills, Brenda Williams, and Larry Williams, a partnership trading as Monchen'e*, No. AP-91-10, Order No. 3794 at 3 (July 15, 1991).

<sup>6</sup> *Id.* at 3.

the Commission determined that Tailgate Bus Service was not a corporation but really just a trade name for Mr. Williams.<sup>7</sup> Based on evidence of unlawful operations, the Commission obtained an injunction from the United States District Court for the District of Columbia on March 4, 1984, barring Mr. Williams from engaging in the transportation of passengers for hire between any points in the Metropolitan District without authority from this Commission.<sup>8</sup>

Mr. Williams later changed the name of his business to Action Bus Tours, Inc.<sup>9</sup> He then commenced operating in the Metropolitan District again despite the injunction and lack of WMATC operating authority.<sup>10</sup> This was the basis for denying an application for operating authority in 1991 filed in the name of Monchen'e,<sup>11</sup> a partnership consisting of Mr Williams, his wife Brenda Williams, (applicant's president), and their daughter, Monica Mills (who it appears is applicant's secretary and now known as Monica Brandon).

Mr. Williams later acquired an ownership interest in All-Star Presidential, LLC.<sup>12</sup> In 1995, All-Star was awarded a contract by the U.S. Department of Agriculture to perform passenger transportation between points in the Metropolitan District.<sup>13</sup> The Commission opened an investigation and determined that All-Star had performed the contract for approximately six weeks in 1995 without WMATC operating authority.<sup>14</sup> The Commission assessed a civil forfeiture against All-Star and ordered All-Star to cease and desist.<sup>15</sup> The forfeiture was subsequently paid, All-Star was dissolved, and the investigation was terminated as to All-Star and its members in 1996.<sup>16</sup>

Mr. Williams thereafter formed All States Tour & Travel Service and hired Monica Mills to assist him in conducting passenger carrier operations in the Metropolitan District.<sup>17</sup> In 1998, based on a finding that Mr. Williams, dba All States, and Ms. Mills had violated the Compact in the past and were reasonably likely to violate the Compact in the future unless restrained by the Court, the U.S. District Court

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<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> *Id.* at 3-4.

<sup>11</sup> *Id.* at 3-4.

<sup>12</sup> *In re All-Star Presidential LLC*, No. MP-95-82, Order No. 4833 (May 9, 1996).

<sup>13</sup> *In re All-Star Presidential LLC*, No. MP-95-82, Order No. 4774 (Feb. 27, 1996).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *In re All-Star Presidential LLC*, No. MP-95-82, Order No. 4938 (Sept. 20, 1996); Order No. 4833.

<sup>17</sup> Complaint at 4, 7, *WMATC v. Presidential Limo. Serv., Inc.*, CA No. 1:97CV02392 (D.D.C Oct. 16, 1997).

for the District of Columbia issued a default judgment permanently enjoining both defendants from transporting passengers for hire between points in the Metropolitan District unless and until properly authorized by the Washington Metropolitan Area Transit Commission and permanently enjoining both defendants from holding themselves and/or their employers out to transport passengers for hire between points in the Metropolitan District, by advertising, displaying indicia of WMATC authority on vehicles, or any other means, unless and until properly authorized by WMATC.<sup>18</sup>

## II. LIKELIHOOD OF APPLICANT'S FUTURE COMPLIANCE

When an applicant or a person controlling an applicant has a record of violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5) whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.<sup>19</sup>

Operating without authority is a serious violation. We find no mitigating circumstances for Mr. Williams' repeated violation of the Compact. The violations described are both persistent and flagrant. We find no evidence that Mr. Williams has made any effort, much less a sincere effort, to correct past mistakes. On the contrary, Mr. Williams' past conduct has been marked by a complete unwillingness and/or inability to comport with the Compact and rules and regulations thereunder.

Consequently, we cannot say that applicant has carried its burden of establishing regulatory compliance fitness.

THEREFORE, IT IS ORDERED that the application of Nola Bus Tours, Inc., for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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



William S. Morrow, Jr.  
Executive Director

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<sup>18</sup> *WMATC v. Presidential Limo. Serv., Inc.*, CA No. 1:97CV02392 (D.D.C July 22, 1998) (order entering default judgment).

<sup>19</sup> *In re Metro Day Treatment Center, Inc.*, No. AP-10-032, Order No. 12,729 (Feb. 15, 2011).