

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 12,787

IN THE MATTER OF:

Served April 1, 2011

Investigation of Violation of)
Commission Regulation No. 63-04 by)
DEVINE ESCAPE LIMOUSINE SERVICE LLC)
and DEVINE ESCAPE LIMOUSINE AND)
SEDAN LLC)

Case No. MP-2011-027

This investigation is being initiated to address an apparent violation of Commission Regulation No. 63-04 governing passenger carrier advertising in the Washington Metropolitan Area Transit District, (Metropolitan District).

I. VIOLATION OF REGULATION NO. 63-04

Article XI, Section 1, of the Washington Metropolitan Area Transit Regulation Compact,¹ (Compact), provides that: "This Act shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District." Article XI, Section 6(a), of the Compact provides that: "A person may not engage in transportation subject to this Act unless there is in force a 'Certificate of Authority' issued by the Commission [or WMATC] authorizing the person to engage in that transportation." Regulation No. 63-04 provides that no carrier "regulated by the Commission or subject to such regulation shall advertise or hold itself out to perform transportation or transportation-related services within the Metropolitan District unless such transportation or transportation-related services are authorized by the Commission."

Devine Escape Limousine Service LLC, (Devine I), applied for WMATC authority in 2007. The application was conditionally approved subject to the requirement that Devine I file certain documents and present its vehicles for inspection within 180 days.² Devine I presented a vehicle for inspection on February 15, 2008, a 10-person 2007 Chrysler stretch limousine. The vehicle failed inspection because the front license plate was missing, there was no proof the vehicle had passed a safety inspection within the past twelve months, and the vehicle markings were displayed on a magnetic sign attached to the vehicle instead of directly on the vehicle as required by WMATC

¹ 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).

² See *In re Devine Escape Limo. Serv. LLC*, No. AP-07-123, Order No. 10,692 (Aug. 10, 2007) (conditionally granting Certificate No. 1424).

Regulation No. 61-03.³ Devine I failed to correct these deficiencies, thereby voiding the Commission's approval.⁴

Devine I's chairman, Dr. Charles Bassey, subsequently formed Devine Escape Limousine and Sedan LLC, (Devine II), and caused Devine II to apply for WMATC authority in 2010. The application was denied without prejudice for failure to establish regulatory compliance fitness.⁵

Devine II holds operating authority from the Federal Motor Carrier Safety Administration.⁶ It appears that Devine I once held authority from the Maryland Public Service Commission but no longer. According to the Maryland Department of Assessments and Taxation website, the charter of Devine I was forfeited in 2009 for failure to file a 2008 property return.

The Webpage <http://www.devineescape.net/aboutus.html> states that "Devine Escape Limousine Service offers you the best ground transportation service at the best price in the Maryland, Virginia and District of Columbia area. Our limousines provide equally cost efficient (sic) transportation services for any occasion or event."

The Webpage <http://www.devineescape.net/fleet.html> advertises passenger transportation between points in the Metropolitan District, including between the District of Columbia, on the one hand, and "National" and "Dulles" Airports, on the other. The Webpage also advertises passenger transportation between points in the District of Columbia and passenger transportation between the District of Columbia, on the one hand, and points in Alexandria and Arlington, Virginia, on the other. The fleet for providing this service is advertised to include vehicles seating 12, 14, 22, and 30 passengers.

The passenger transportation service advertised on these Webpages requires a WMATC certificate of authority. Neither Devine I nor Devine II holds WMATC operating authority. It thus appears that Devine I and/or Devine II are violating Regulation No. 63-04.

II. AUTHORITY TO INVESTIGATE AND SANCTION VIOLATIONS

The Commission may investigate on its own motion a fact, condition, practice, or matter to determine whether a person has violated or will violate a provision of the Compact or a rule, regulation, or order.⁷

³ Devine I was instructed to surrender the signs. There is no evidence that Devine I complied.

⁴ See Order No. 10,692 (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).

⁵ *In re Devine Escape Limo. & Sedan LLC*, No. AP-10-142, Order No. 12,700 (Jan. 25, 2011).

⁶ USDOT Number 1642915

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

If the Commission finds that a respondent has violated a provision of the Compact or any requirement established under it, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.⁸

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.⁹

III. ORDER TO DESIST AND SHOW CAUSE

Respondents shall immediately cease and/or refrain from violating Regulation No. 63-04. Respondents shall have 30 days to show cause why the Commission should not assess a civil forfeiture. Respondents shall have 15 days to request an oral hearing.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondents' advertising of passenger carrier service in the Washington Metropolitan Area Transit District is hereby initiated under Article XIII, Section 1, of the Compact.

2. That respondents are hereby directed to cease and desist from advertising passenger carrier service requiring a WMATC certificate of authority, unless and until otherwise ordered by the Commission.

3. That respondents shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondents for knowingly and willfully violating Regulation No. 63-04.

4. That respondents 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.

FOR THE COMMISSION:



William S. Morrow, Jr.
Executive Director

⁸ Compact, tit. II, art. XIII, § 1(d).

⁹ Compact, tit. II, art. XIII, § 6(f).