

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,872

IN THE MATTER OF:

Served June 1, 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. 12,762, served March 14, 2011, directing respondent 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.

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.¹ 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Among the owners of the other vehicles were a carrier whose WMATC Certificate of Authority had been revoked (US Transcare Inc.)² and a company that had twice applied for but was denied a WMATC certificate of authority for failure to establish compliance fitness (Care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.)³.

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² US Transcare Inc. held WMATC Certificate No. 1002 from 2005 until 2007, when it was revoked in part for that company's failure to furnish evidence that it ceased operating during a 54-day period when it lacked insurance coverage.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).

³ *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).

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

Nine vehicles were registered in the name of Adem H Adem DBA Care Transport.⁴

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 request⁵

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.

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

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

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.

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.

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.

III. ORDER NO. 12,762

As of March 14, 2011, the record showed that respondent had timely brought its operations into compliance with some WMATC requirements but not all. Order No. 12,762 noted the apparent shortcomings and gave respondent 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.

Order No. 12,762, also gave respondent 15 days to request an oral hearing, but no request was filed.

The Commission's findings in Order No. 12,762 and respondent's responses to those findings, filed April 11, 2011, are as follows:

A. Vehicle Leases

Finding. Respondent timely filed all of the leases it was bound to file except two: the leases for vehicle nos. 2 and 6.⁶ 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

⁶ 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 Order No. 12,762.

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.

Response. Respondent points out that respondent filed a new registration for vehicle no. 6 in respondent's name on September 2, 2010, thus eliminating the need for a lease.

B. Vehicle Markings

Finding. 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.⁷

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.⁸

Response. Respondent does not contest this finding but states that the person responsible for preparing vehicles for inspection, Mr. Guled Abdulahi, has been relieved of his management duties.

C. Vehicle Safety Inspection Certificates

Finding. 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.

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

⁸ Commission staff seized the sign.

Response. Respondent now states that in addition to the title/lease issues, vehicle no. 2 was removed from service shortly before the August 31 deadline in part because it had become inoperable. The vehicle passed a safety inspection shortly after it was restored to operating condition, and respondent produced the safety certificate soon thereafter.

D. Vehicle Registration Laws

Finding. 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.

Response. Respondent does not contest this finding but states that the person responsible for preparing vehicles for inspection, Mr. Guled Abdulahi, has been relieved of his management duties. The two vehicles in question passed staff inspection shortly after failing the first inspection.

E. Failure to Produce Documents

Finding. 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.

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.

Response. Respondent states that the driver information request at issue only applied to drivers not paid directly by respondent in 2009 and 2010, and, as noted, respondent paid all drivers directly in those years.

F. Failure to Timely Present Vehicles

Finding. 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.

Response. Respondent states that although vehicle no. 26 did not pass inspection by the August 31, 2010, deadline it was

presented for inspection by the deadline, and this was all the order required.

G. Use of Non-Employee Managers

Finding. 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",⁹ 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.

Response. Respondent states that it has demoted both of its regulatory compliance managers, Mr. Basiru Dante and Mr. Guled Abdulahi, for failing to fulfill their duties. Respondent further states as follows:

To further remove any appearance of lack of control by Respondent's members and corporate officers over Respondent's vehicles, and as it is further discussed in paragraph H below, Respondent's members and corporate officers intend to rely on advice of counsel, handle most regulatory matters themselves without delegating such matters to managers, more carefully screen manager candidates for past performance and experience, and, in particular, experience of assuring regulatory compliance, hire managers as employees as opposed to an independent contractors, and effect closer supervision of the managers' performance.

H. Use of Persons with a History of Regulatory Violations

Finding. 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.

⁹ I.R.S. Publication No. 15-A at 4.

According to respondent's Report of Compliance submitted January 18, 2011, respondent's then-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.¹⁰ 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.¹¹ Yet more evidence of unlawful operations by Care Transport in 2008 materialized in another proceeding in 2010.¹²

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.

Response. Mr. Mehta states in an affidavit that he left the employ of US Transcare in July 2006, which was prior to the suspension of US Transcare's Certificate No. 1002 in October 2006 and subsequent revocation in 2007.

Respondent has this to say regarding Mr. Abdulahi:

Mr. Guled Abdulahi approached Respondent's member Mr. Mehta for employment in September 2009. As it is further discussed in Mr. Mehta's affidavit attached as Exhibit B hereto, Mr. Abdulahi informed Mr. Mehta that his company Care Transport, Inc. owned a number of vehicles and was denied an operational authority by WMATC. Accordingly, Mr. Abdulahi was considering a number of options, including sale of vehicles and winding up of Care Transport, Inc. Mr. Mehta hired him as Respondent's manager in September 2009. Mr. and Mrs. Mehta also decided it was in Respondent's best interests to lease all vehicles from Care Transport, Inc., which lease commenced in September - October 2009. Neither Mr. Mehta nor Mrs. Mehta was aware of particular details and grounds of Commission's denial of operational authority to Care Transport, Inc. including the fact that the operational authority was denied twice.

¹⁰ Order No. 11,551.

¹¹ Order No. 11,975.

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

As it has been stated above, upon receipt of WMATC Order No. 12,762, it became obvious to Respondent's officers that Mr. Abdulahi's performance as manager responsible for vehicles operational fitness and other tasks as delegated to him by Respondent's members was below any acceptable level. Instead of strengthening Respondent's position in current regulatory investigation, Mr. Abdulahi created additional compliance issues of vehicles markings casting doubt on Respondent's desire and ability to achieve complete regulatory compliance. Respondent removed Mr. Abdulahi from the position of manager, and reached an agreement with him regarding buying out all 12 vehicles currently leased from Care Transport, Inc. (including vehicles which titled to the guarantor party of obligations of Care Transport, Inc. under the vehicle loans) in the next six month. In addition, Respondent scheduled to terminate Mr. Abdulahi's employment as a driver with Respondent, after the vehicle buyout is completed.

IV. ASSESSMENT OF FORFEITURE

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.¹³ Each day of the violation constitutes a separate violation.¹⁴

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.¹⁵ 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.¹⁶

We find that respondent has shown cause why the Commission should not assess forfeitures as to all apparent shortcomings except the failure to comply with Regulation Nos. 61 (vehicle marking requirements) and 62 (vehicle lease requirements).

A. Regulation No. 61

Commission Regulation No. 61-01 requires that each WMATC carrier display its name and WMATC number on both sides of each vehicle operated under WMATC authority. The markings required by Regulation No. 61 help assign responsibility, and facilitate recovery

¹³ Compact, tit. II, art. XIII, § 6(f).

¹⁴ Compact, tit. II, art. XIII, § 6(f)(ii).

¹⁵ *In re Paramed Medical Transp., Inc.*, No. MP-02-50, Order No. 7012 at 4 (Jan. 24, 2003).

¹⁶ *Id.* at 4-5.

of compensation, for damage and injuries caused by carriers operating under WMATC authority.¹⁷ Such markings facilitate the processing of customer complaints, as well.¹⁸ The Federal Motor Carrier Safety Administration (FMCSA) has this to say on the importance of vehicle markings.

The FMCSA believes it is important that [vehicles] be properly marked before they are placed into service on the highway. Such markings will assist State officials conducting roadside inspections and accident investigations in attributing important safety data to the correct motor carrier. It will also ensure the public has an effective means to identify motor carriers operating in an unsafe manner.

65 Fed. Reg. 35287, 35288 (June 2, 2000).

Respondent had ample opportunity to bring its vehicles into compliance but repeatedly presented vehicles for inspection that violated the simple requirements of Regulation No. 61. We shall assess a forfeiture of \$250¹⁹ for each of the five days the violation was observed, or \$1,250.

B. Regulation No. 62

Commission Regulation No. 62 governs the leasing of vehicles by WMATC carriers. Regulation No. 62-08 in particular provides that:

The lease of a vehicle with a driver provided by the same lessor is prohibited, except as provided by Regulation 62-12(c)(1). For the purpose of this regulation, a driver provided by the lessor shall be deemed to include the lessor, his employees, any person controlling, controlled by, or under common control with the lessor, and any person in a contractual relationship with the lessor. The lessee may operate a leased vehicle with a qualified driver who (a) is a bona fide employee of the lessee or (b) is obtained from a personnel supplier having no prohibited relationship with the lessor.

Regulation No. 62-08 is designed to prevent carriers without WMATC authority from operating in the Metropolitan District through the guise of a so-called lease arrangement.²⁰ It reflects the

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 3.

¹⁹ *See id.* at 5 (same).

²⁰ *In re Orbital Shuttle, Inc.*, No. AP-99-60, Order No. 5736 (Nov. 2, 1999).

rebuttable presumption that an entity which furnishes both a vehicle and a driver under a lease agreement is actually a passenger carrier.²¹

As noted above, Mr. Abdulahi is president of Care Transport Inc., respondent leases vehicles from Care Transport Inc., and respondent recently made Mr. Abdulahi one of respondent's drivers. This is a violation of Regulation No. 62-08.

Although the Commission need not issue a warning first before assessing a civil forfeiture,²² in this case, the Commission twice highlighted the importance of respondent's compliance with Regulation No. 62-08 in this proceeding.²³

We therefore shall assess a forfeiture of \$250²⁴ against respondent for violating Regulation No. 62-08.

V. OTHER JUST AND REASONABLE RELIEF

If, after hearing, the Commission finds that a respondent has violated a provision of the Compact or any requirement established 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.²⁵ As noted above, respondent declined the opportunity for hearing.

"[F]itness is one of the criteria essential to maintaining a [WMATC certificate of authority]."²⁶ In the case of *In re Adventures By Dawn L.L.C.*, No. AP-00-89, Order No. 6087 (Jan. 16, 2001), the Commission found applicant fit as to regulatory compliance in part because applicant had moved its offices from a location where a prior Compact violator would have benefited indirectly from applicant's presence. In the case of *In re Gloria Sodipo, t/a Right Way Transp.*, No. AP-04-75, Order No. 8532 (Jan. 28, 2005), the Commission declined to reopen an application proceeding and issue a certificate of authority because the applicant proposed operating only one vehicle and that vehicle was to be leased from a prior Compact violator. In this case, the prior Compact violators that stand to benefit are Care Transport Inc. and its president, Mr. Guled Abdulahi.

²¹ *Id.*

²² *In re Japan Travelers Serv., Inc., & Hideo Koga*, No. MP-92-36, Order No. 4019 at 5 (Nov. 23, 1992).

²³ Order No. 12,657, served December 17, 2010; Order No. 12,454, served June 23, 2010.

²⁴ See *In re VOCA Corp. of Wash., D.C.*, No. MP-02-30, Order No. 7258 (June 20, 2003) (same).

²⁵ Compact, tit. II, art. XIII, § 1(d).

²⁶ *In re V.I.P. Tours*, No. AP-83-10, Order No. 2504 (Dec. 2, 1983) (on reconsideration), *aff'd per curiam*, No. 83-2341, judgment (D.C. Cir. Jan. 25, 1985).

Mr. Abdulahi is responsible for the lease of 12 vehicles to respondent, 3 in his capacity as president of Care Transport Inc. and 9 in his capacity as agent for Adem H. Adem, DBA Care Transport.²⁷

Under Mr. Abdulahi's direction, Care Transport Inc. filed an application for WMATC operating authority in 2008. The application was supported by Mr. Adem in his capacity as East Group President of MV Transportation, Inc., WMATC Carrier No. 764. The application was denied when Care Transport Inc. failed to respond to a Commission request for additional information, as explained in Order No. 11,551:

A list of transportation providers obtained from Medical Transportation Management, Inc., (MTM), indicates applicant has begun performing passenger transportation in the Metropolitan District under contract with MTM notwithstanding the lack of WMATC operating authority.

Order No. 11,447, served July 1, 2008, accordingly gave applicant thirty days to comment on this apparent violation of the Compact before we decide this application.

Applicant did not respond. The application therefore shall be denied.²⁸

Mr. Abdulahi caused Care Transport Inc. to reapply for WMATC authority in 2009. That application was denied as well, as explained in Order No. 11,975.

In this proceeding, applicant's president, Guled M. Abdulahi, states that the only work applicant has done for MTM is dispatching vehicles operated by Metro Health-Tech Services Inc., WMATC Carrier No. 589. A statement from MTM's CEO, Alaina Macia, seems to corroborate Mr. Abdulahi's statement. According to Ms. Macia:

Medical Transportation Management, Inc. ("MTM") entered into a single contract executed by two entities, Care Transport, Inc. and Metro Health Tech, Inc.

MTM's understanding was that Care Transport was in the process of purchasing Metro Health Tech that owned vehicles and had WMATC licensing, and that Care Transport would provide dispatch services and

²⁷ Accompanying the lease is power of attorney grant from Mr Adem to Mr. Abdulahi in which Mr. Adem describes his interest as "guarantor of . . . financing."

²⁸ *In re C.P.R. Med. Transp. LLC*, No. AP-08-068, Order No. 11,551 (Sept. 4, 2008).

Metro Health Tech [would] provide the transportation services.

Neither applicant nor MTM, however, has produced any contract describing such a relationship.

The only evidence of an agreement between applicant and Metro Health-Tech in the Commission's files is a copy of a commercial building lease between the parties submitted by Metro Health-Tech during the course of a Commission investigation last year. In the agreement, applicant agrees to lease the "ground level" part of a Metro Health-Tech office building from April 2008 through March 2011. Applicant agrees to use and occupy the premises for "office / vehicle storage". A copy of applicant's August 2008 lease payment is attached. This is clearly not an agreement to purchase Metro Health-Tech. Further, if applicant was performing dispatch services for Metro Health-Tech's vehicles only, then applicant would not have needed to lease any "vehicle storage" space for itself.²⁹

The Commission's suspicion that Care Transport Inc. was operating vehicles while Mr. Abdulahi was at the helm and not merely dispatching vehicles for others, was later confirmed in the application of Epps Transportation Company, Inc., when the Commission obtained copies of several Care Transport Inc. checks issued to Epps for the lease of two vans from Epps in 2008, as described in Order No. 12,457.

The memo line on one of the Care Transport checks characterizes the transaction as a "Lease payment". Two other checks say "car lease". Epps Transportation's CEO, Bessie Epps, states that Epps Transportation leased "two vans to Care Transportation [sic] from March 2008 thru October 2008."³⁰

A look at the record in the Epps proceeding reveals that several of the checks were signed by Mr. Abdulahi, including the check that says "Lease payment".

During the course of this proceeding, while Mr. Abdulahi was respondent's manager, Commission staff confiscated a magnetic sign with WMATC markings from one of the vehicles leased to respondent by Mr. Abdulahi. When the Commission amended Regulation No. 62 in 2003

²⁹ *In re C.P.R. Med. Transp. LLC*, No. AP-09-016, Order No. 11,975 (May 8, 2009).

³⁰ *In re Epps Transp. Co., Inc.*, No. AP-10-009, Order No. 12,457 (June 24, 2010).

to prohibit the use of removable displays except in limited circumstances, the Commission observed the following:

Commission staff have confiscated removable displays during the course of investigating three separate carriers this year. In two of the investigations, the offending carrier was using the signs to improperly operate under the authority of another carrier. In the third investigation, the carrier was using signs to operate under authority that had been conditionally granted and then denied when the conditions were not timely satisfied.

Thus, not only has Mr. Abdulahi flouted the Commission's authority in the past, he continues to flout it in the present.

As noted above, respondent states that it has demoted Mr. Abdulahi to driver and that Mr. Abdulahi's status as an independent contractor working for respondent will be terminated within the next six months upon respondent's purchase of the 12 vehicles leased under his signature. We commend respondent for taking this action but believe it does not go far enough.

Not only is Mr. Abdulahi's employment as a driver prohibited by Regulation No. 62-08 as we have noted above, we do not believe it would be consistent with the public interest to allow Care Transport Inc. and Mr. Abdulai to profit any further from passenger transportation in the Metropolitan District. One sure means of preventing these Compact violators from benefiting further from respondent's operations would be to revoke Certificate No. 1551, the analog to denying an application for operating authority - the solution reached in the *Sodipo* proceeding discussed above. On the other hand, a more targeted approach might be just as effective and cause less disruption to the operations of respondent's principal client, MTM, the District of Columbia's Medicaid transportation manager.

Accordingly, pursuant to Article XIII, Section 1(d), of the Compact, we shall terminate the leases signed by Mr. Abdulahi effective 30 days from the date of this order, direct respondent to terminate Mr. Abdulahi's independent contractor status immediately, and direct respondent not to purchase the 12 vehicles leased under Mr. Abdulahi's signature.

VI. CONCLUSION

We find that respondent has shown cause why Certificate No. 1551 should not be suspended or revoked. On the other hand, given respondent's recent violation of Regulation No. 62-08, we are concerned that with the ongoing presence of other leased vehicles, the possibility of similar violations in the future requires that we take measures to reduce the likelihood that such violations will occur again. Therefore, pursuant to Article XII, Section 1(a)(i), of the

Compact, during the next 12 months, for all leased vehicles, respondent shall file monthly reports identifying which driver drove which leased vehicle(s). Respondent shall be on probation during this period.³¹

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 \$1,500 for knowingly and willfully violating Regulation Nos. 61 and 62.

2. That respondent is hereby directed to pay to the Commission within 30 days, by check or money order, the sum of one thousand five hundred dollars (\$1,500).

3. That pursuant to Article XIII, Section 1(d), of the Compact, the leases signed by Mr. Guled Abdulahi are hereby terminated, effective 30 days from the date of this order.

4. That pursuant to Article XIII, Section 1(d), of the Compact, respondent shall terminate the independent contractor status of Mr. Guled Abdulahi immediately.

5. That pursuant to Article XIII, Section 1(d), of the Compact, respondent shall not purchase the vehicles covered by the leases signed by Mr. Guled Abdulahi.

6. That pursuant to Article XII, Section 1(a)(i), of the Compact, respondent shall file a report at the end of each of the next 12 months identifying which driver drove which leased vehicle(s) that month.

7. 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. 1551, regardless of the nature and severity of the violation.

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



William S. Morrow, Jr.
Executive Director

³¹ See *In re Paramed Medical Transp., Inc., t/a Para-Med*, No. MP-10-015, Order No. 12,723 (Feb. 15, 2011) (same).

