

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 13,131

IN THE MATTER OF:

Served January 26, 2012

Application of UPSCALE CAR SERVICE, )  
LLC, for a Certificate of Authority )  
-- Irregular Route Operations )

Case No. AP-2011-033

This matter is before the Commission on applicant's response to Order No. 13,084, served December 14, 2011, giving applicant 30 days to show cause why this proceeding should not be terminated.

Order No. 12,803, served April 11, 2011, conditionally granted Certificate of Authority No. 1802 to applicant and stipulated that applicant would have the full 180 days available under Commission Regulation No. 66 -- or until October 11, 2011, as measured under Rule No. 7-01 -- to satisfy the conditions of the grant, including the filing of a lease for any vehicle not registered in applicant's name. Applicant did not fully satisfy the conditions of the grant by the October 11 deadline and timely requested an extension.

The record shows that as of October 11, 2011, applicant's only vehicle had not passed an inspection by staff, and applicant had not filed a lease for that vehicle. A lease is required under Order No. 12,803 because applicant's vehicle is registered to someone other than applicant. The vehicle subsequently passed inspection by staff on November 10, and applicant filed a lease on November 9. The lease contains a technical error but otherwise placed applicant in substantial compliance with Order No. 12,803, which under Commission precedent would be considered grounds for granting the requested extension, but an intervening development stayed the Commission's hand.

On November 22, applicant filed a second lease to cure the defect in the first. The signature for lessor on the second lease, however, clearly does not match the signature for the same lessor on the first lease. Order No. 13,084 accordingly gave applicant 30 days to explain this discrepancy and show cause why the extension should not be denied with prejudice.

Applicant's CEO, Evelyn Carter, filed a statement on January 10, 2012, in which she recounts how on October 11, 2011, she filed with the Commission four copies of what she describes as a "lease" in an attempt to comply with Order No. 13,084. Said lease, however, is actually a finance agreement between the vehicle owner, Raheen Council, and Lindsay Chevrolet. Ms. Carter's statement then discusses how the application was dismissed even after she had substituted, (on November 9, 2011), a completed WMATC Contract of Lease Form, which identifies the lessee as Ms. Carter, not Upscale Car

Service, LLC. Apparently, Ms. Carter drafted the lease with the understanding that she is the applicant. The application was filed in the name of Upscale Car Service, LLC, however, not Evelyn Carter. Upscale Car Service, therefore, is the applicant, not Ms. Carter.

As for the "new Contract of Lease" filed on November 22, Ms. Carter claims in her statement that she "met with Mr. Raheem (sic) Council the day before to re-sign the form and then I submitted the Contract of Lease to your office. So I have no understanding on why the signature is in question and why my extension/application would be denied."

A comparison of the Raheen Council signatures on the three documents reveals clearly that the signatures on the finance agreement and the November 9 lease match each other. The Raheen Council signature on the November 22 lease, however, clearly does not match the other two. Indeed, the signature looks remarkably similar to Ms. Carter's handwriting in the application form and her handwriting in the November 9 lease, which she acknowledges as hers. Moreover, the November 22 lease is signed "Raheem" instead of "Raheen". This is the same mistake made in Ms. Carter's January 10 statement.

Under the circumstances, we find that applicant has failed to explain the discrepancy between the lessor's signature on the first lease and the lessor's signature on the second lease and, thus, has failed to show cause why the extension should not be denied.

Therefore, the extension is denied, and this proceeding is terminated.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:

A handwritten signature in black ink, appearing to read "W. S. Morrow, Jr.", written in a cursive style.

William S. Morrow, Jr.  
Executive Director