

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 13,354

IN THE MATTER OF:

Served July 18, 2012

HONEYWELL TRANSPORTATION LLC,)
Suspension and Investigation of)
Revocation of Certificate No. 1662)

Case No. MP-2012-023

This matter is before the Commission on respondent's failure to respond to Order No. 13,285, served May 24, 2012, which directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1662.

I. BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 1662 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 1662 was rendered invalid on March 13, 2012, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 13,213, served March 29, 2012, noted the automatic suspension of Certificate No. 1662 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1662, and gave respondent thirty days to replace the terminated endorsement, submit a valid 2012 Annual Report, and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1662.

Respondent subsequently paid the late fee and submitted an acceptable 2012 annual report on April 5, 2012, which displayed a street address for respondent matching the address on two replacement WMATC Insurance endorsements - a \$1 million primary and a \$500,000 excess - filed earlier on March 19, 2012, but rejected at that time

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

because no matching address was on file with the Commission as required by Regulation No. 58-04(b). Once a matching address was on file with the Commission, those endorsements became acceptable, and the suspension was lifted in Order No. 13,220 on April 5, 2012. This investigation was continued, however, because the effective date of the new endorsements is March 14, 2012, instead of March 13, 2012, and under Regulation No. 58-14:

If a carrier's operating authority is suspended under Regulation No. 58-12 and the effective date of a later-filed replacement Endorsement falls after the automatic suspension date, the carrier must verify timely cessation of operations in accordance with Commission Rule No. 28 and corroborate the verification with client statements and/or copies of pertinent business records, as directed by Commission order.

Order No. 13,220 accordingly gave respondent 30 days to verify cessation of operations from March 13, 2012, to April 5, 2012, and 30 days to corroborate the verification with copies of respondent's pertinent business records. Respondent did not respond.

Because respondent failed to verify cessation of operations on and after the suspension date and failed to produce any documents, Order No. 13,285, served May 24, 2012, gave respondent 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1662, for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding. Respondent has yet to respond to Order No. 13,285.

II. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY

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.³

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.⁴

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁵ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent;

³ Compact, tit. II, art. XIII, § 6(f).

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re Dynasty Unltd., Inc.*, No. MP-09-131, Order No. 12,316 (Feb. 24, 2010).

rather, they describe conduct marked by intentional or careless disregard or plain indifference.⁶

Because respondent failed to respond to Order Nos. 13,220 and 13,285 and has offered no explanation for this failure, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250⁷ and revoke Certificate No. 1662.⁸

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

2. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 1662 is hereby revoked for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

3. That within 30 days from the date of this order respondent shall:

- a. pay to the Commission by money order or check, the sum of two hundred fifty dollars (\$250);
- b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- c. file a notarized affidavit and supporting photograph(s) with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 1662 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.
Executive Director

⁶ *Id.*

⁷ *See id* (same).

⁸ *See id* (same).