

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 13,538

IN THE MATTER OF:

Served October 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 response to WMATC Order No. 13,354, served July 18, 2012, which assessed a \$250 civil forfeiture against respondent and revoked 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 because no matching address was on file with the Commission as required by Regulation No. 58-04(b). Once a matching address was on

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

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.

When respondent did not respond to Order No. 13,285 within 30 days, the Commission issued Order No. 13,354 on July 18, 2012, assessing a \$250 civil forfeiture against respondent, and revoking 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.

On July 27, 2012, respondent filed an application for reconsideration of Order No. 13,354. The application is supported by the unsworn statement of respondent's owner and manager, Charles Akins, and by two supplemental WMATC Insurance Endorsements showing a combined \$1.5 million in commercial auto liability coverage. The effective date of the supplemental Endorsements is March 13, 2012, which closes the one-day gap created by the WMATC Endorsements filed March 19, 2012, with an effective date of March 14, 2012.

II. ORDER TO REINSTATE AUTHORITY AND CONTINUE INVESTIGATION

Under Article XIII, Section 4, of the Compact, a party affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved.³ The application must state

³ Compact, tit. II, art XIII, § 4(a).

specifically the errors claimed as grounds for reconsideration.⁴ The Commission must grant or deny the application within 30 days after it has been filed.⁵ If the Commission does not grant or deny the application by order within 30 days, the application shall be deemed denied.⁶ If the application is granted, the Commission shall rescind, modify, or affirm its order or decision with or without a hearing, after giving notice to all parties.⁷ Filing an application for reconsideration may not act as a stay upon the execution of a Commission order or decision, or any part of it, unless the Commission orders otherwise.⁸

Applicant's request for reconsideration of Order No. 13,250 was timely filed on July 27, 2012, but it does not allege any error on the part of the Commission. The application therefore is denied.

Under Commission Rule No. 26-04, however: "If, after the hearing in a proceeding, the Commission shall have reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of such proceeding, the Commission will issue an order reopening." Considering that respondent has closed the one-day coverage gap and is currently in compliance with Regulation No. 58, we will reopen this proceeding on our own initiative under Commission Rule No. 26-04 and reinstate Certificate No. 1662.⁹

But given the state of this record, respondent will be directed to: (1) file a sworn statement clearly indicating whether respondent timely ceased operations in the Metropolitan District as of March 13, 2012, the date Certificate No. 1662 was automatically suspended under Regulation No. 58-12; and (2) produce a written statement from Medical Transportation Management, Inc., (MTM), indicating the individual dates that respondent provided services to MTM under the contract that Mr. Akins states respondent entered into with MTM in February of this year. The \$250 forfeiture assessed against respondent in Order No. 13,354, in part for operating while suspended, shall be stayed pending submission of said statements.

THEREFORE, IT IS ORDERED:

1. That the application for reconsideration is denied.

⁴ Compact, tit. II, art XIII, § 4(a).

⁵ Compact, tit. II, art XIII, § 4(b).

⁶ Compact, tit. II, art XIII, § 4(c).

⁷ Compact, tit. II, art XIII, § 4(d).

⁸ Compact, tit. II, art XIII, § 4(e).

⁹ Cf., *In re 1st Choice Investment Group, LLC, t/a It's About U*, No. MP-08-013, Order No. 11,222 (Mar. 18, 2008) (lifting suspension on same grounds); *In re Ibrahim A. Fahadi*, No. MP-07-117, Order No. 10,850 (Oct. 19, 2007) (same).

2. That this proceeding is hereby reopened under Commission Rule No. 26-04.

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

a. file a sworn statement clearly indicating whether respondent timely ceased operations in the Metropolitan District as of March 13, 2012; and

b. produce a written statement from Medical Transportation Management, Inc., (MTM), indicating the individual dates that respondent provided services to MTM in 2012.

4. That the \$250 civil forfeiture assessed in Order No. 13,354 is hereby stayed until ordered otherwise.

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



William S. Morrow, Jr.
Executive Director