

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 13,595

IN THE MATTER OF:

Served November 27, 2012

Application of JUNIOR'S MULTI )  
ENTERPRISES, INC., for a ) Case No. AP-2012-028  
Certificate of Authority -- )  
Irregular Route Operations )

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If the applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>1</sup> A determination of compliance fitness is prospective in nature.<sup>2</sup> The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.<sup>3</sup> Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.<sup>4</sup>

**I. THE RECORD**

Applicant's president, Horace Green, Jr., was the president of Junior's Enterprises, Inc., during the time it held WMATC Certificate No. 401 from December 4, 1997, to May 11, 2009, when Certificate No. 401 was terminated at his request.

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<sup>1</sup> *In re My Own Place, Inc.*, No. AP-12-157, Order No. 13,544 (Oct. 19, 2012).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

While Horace Green, Jr., was at the helm, WMATC Carrier No. 401 was suspended three times for insurance violations.<sup>5</sup> And the Commission assessed a civil forfeiture against WMATC Carrier No. 401 and against Horace Green, Jr., for knowingly and willfully operating an unsafe vehicle, transferring Certificate No. 401 without Commission approval, and disobeying a Commission order.<sup>6</sup>

In addition, WMATC Carrier No. 401 failed to verify removal of WMATC vehicle markings and surrender Certificate No. 401 within 30 days as required by the order approving voluntary termination of WMATC Certificate No. 401.<sup>7</sup>

## II. LIKELIHOOD OF FUTURE COMPLIANCE

When an applicant or a person controlling an applicant has a record of violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5) whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.<sup>8</sup>

During the course of this proceeding, the Commission became concerned that Horace Green, Sr. - the father of Horace Green, Jr. - was involved in the formation and/or operation of Junior's Multi Enterprises, Inc. Like son, father had a history of operating WMATC carriers with a record of regulatory violations.<sup>9</sup> When asked to indicate the extent to which Horace Green, Sr., assisted in the formation of Junior's Multi Enterprises, Inc., Horace Green, Jr., replied that "no outside influences from third parties or from my father, etc had any input in the formation of my company . . . ."

However, applicant's articles of incorporation identify 4111 Kilbourne Drive, Fort Washington, MD 20744, as applicant's principal place of business and resident agent address. This is the same address on file with the Commission as the principal place of business

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<sup>5</sup> *In re Junior's Enters., Inc.*, No. MP-09-057, Order No. 11,940 (Apr. 13, 2009); *In re Junior's Enters., Inc.*, No. MP-08-076, Order No. 11,266 (Apr. 11, 2008); *In re Junior's Enters., Inc.*, No. MP-03-165, Order No. 7567 (Dec. 1, 2003).

<sup>6</sup> *In re Junior's Enters., Inc.*, No. MP-01-103, Order No. 6549 (Feb. 21, 2002).

<sup>7</sup> See *In re Junior's Enters., Inc.*, No. AP-09-044, Order No. 11,978 (May 11, 2009).

<sup>8</sup> *In re F&O Transport Serv., LLC*, No. AP-11-007, Order No. 12,828 (Apr. 29, 2011).

<sup>9</sup> See e.g., *In re Green's Transp. Co., Inc.*, No. MP-11-038, Order No. 13,043 (Nov. 8, 2011) (assessing forfeiture and revoking WMATC Certificate No. 320).

of the father's company, Green's Transportation Company, Inc., former WMATC No. 320.<sup>10</sup>

Given the record of violations for which applicant's president has been directly responsible, we cannot say that applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.

THEREFORE, IT IS ORDERED that the application of Junior's Multi Enterprises, Inc., for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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



William S. Morrow, Jr.  
Executive Director

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<sup>10</sup> In addition, a comparison of the handwriting in applicant's articles of incorporation, on file with the Maryland Department of Assessments and Taxation, with the handwriting in an annual report filed with this Commission by Horace Green, Jr.'s, father reveal an apparent match.