

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 13,741

IN THE MATTER OF:

Served February 15, 2013

BETTER BUSINESS CONNECTION, INC.,)
T/A BBC EXPRESS, WMATC No. 227; BBC)
VAN SERVICE, INC., T/A BBC CHARTER)
AND LIMO; ABE'S LIMO, INC., T/A)
ABE'S LIMO; and BEST BUS COMPANY,)
LLC, T/A BBC: Investigation of)
Violation of Article XI, Section)
Nos. 6(a) & 11(b), of the Compact,)
WMATC Reg. Nos. 61, 62, & 63, and)
WMATC Order Nos. 12,238 & 13,258)

Case No. MP-2013-028

The Washington Metropolitan Area Transit Regulation Compact,¹ (Compact), applies to: "the transportation for hire by any carrier of persons between any points in the Metropolitan District."² A person may not engage in transportation subject to the Compact unless there is in force a Certificate of Authority issued by the Washington Metropolitan Area Transit Commission (WMATC) authorizing the person to engage in that transportation.³ "A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority."⁴ "Each authorized carrier shall: . . . (b) observe and enforce Commission regulations established under [the Compact]."⁵

The Commission may investigate on its own motion a fact, condition, practice, or matter to determine whether a person has violated or will violate a provision of the Compact or a rule, regulation, or order.⁶ If the Commission finds that a respondent has violated a provision of the Compact or any requirement established

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 Compact, tit. II, art. XI, § 1. The Metropolitan District includes: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties . . . Compact, tit. I, art. II.

³ Compact, tit. II, art. XI, § 6(a).

⁴ Compact, tit. II, art. XI, § 11(b).

⁵ Compact, tit. II, art. XI, § 5.

⁶ Compact, tit. II, art. XIII, § 1(c).

under it, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.⁷

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.⁸ Each day of the violation constitutes a separate violation.⁹

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.¹⁰

I. RESPONDENTS

Better Business Connection, Inc., trading as BBC Express, has held WMATC Certificate of Authority No. 227 since June 15, 1993.

BBC Van Service, Inc., trading as BBC Charter and Limo, was conditionally granted WMATC Certificate No. 1656 on November 25, 2009.¹¹ The conditional grant order noted that BBC Charter and Limo had a presumptive control relationship with BBC Express and admonished BBC Charter and Limo to keep its assets, books, finances and operations completely separate from those of BBC Express.¹² Sharing of office space was allowed, but this was not to be construed as permission to share revenue vehicles or operating authority.¹³ The issuance of Certificate No. 1656 was expressly made contingent on BBC Charter and Limo filing additional documents and passing a vehicle inspection conducted by Commission staff within 180 days.¹⁴ BBC Charter and Limo failed to satisfy the conditions for issuance of operating authority within the time allotted, thereby voiding the Commission's approval.¹⁵

Abe's Limo, Inc., trading as Abe's Limo, applied for WMATC operating authority in 2010, but the application was dismissed on March 22, 2011, for failure to prosecute.¹⁶

⁷ Compact, tit. II, art. XIII, § 1(d).

⁸ Compact, tit. II, art. XIII, § 6(f).

⁹ Compact, tit. II, art. XIII, § 6(f)(ii).

¹⁰ Compact, tit. II, art. XI, § 10(c).

¹¹ *In re BBC Van Serv., Inc., t/a BBC Charter and Limo*, No. AP-08-179, Order No. 12,238 (Nov. 25, 2009).

¹² *Id.*

¹³ *Id.*

¹⁴ *See id.*

¹⁵ *See id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); see also Commission Reg. No. 66-01 (failure to comply with conditions of grant within 180 days voids approval).

¹⁶ *In re Abe's Limo, Inc., t/a Abe's Limo*, No. AP-10-030, Order No. 12,772 (Mar. 22, 2011).

Best Bus Company, LLC, was conditionally granted WMATC Certificate No. 1933 on May 9, 2012.¹⁷ The conditional grant order noted that Best Bus Company had a control relationship with BBC Express, WMATC No. 227, and admonished Best Bus Company to keep its assets, books, finances and operations completely separate from those of BBC Express.¹⁸ Sharing of office space was allowed, but this was not to be construed as permission to share revenue vehicles or operating authority.¹⁹

The issuance of Certificate No. 1933 to Best Bus Company was expressly made contingent on Best Bus Company filing additional documents and passing a vehicle inspection conducted by Commission staff within 180 days.²⁰ To that end, Best Bus Company presented two vehicles for inspection, each marked "Owned by Abe's Limo Inc." and "Operated by BBC". When staff advised Best Bus Company that the Commission did not recognize the "BBC" trade name, Best Bus Company filed an application to add that name to the yet-to-be-issued Certificate No. 1933. The trade name application was later dismissed for Best Bus Company's failure to prosecute.²¹

Ultimately, Best Bus Company failed to timely satisfy the conditions for issuance of Certificate No. 1933, thereby voiding the Commission's approval.²² Best Bus Company renewed its proposal to conduct WMATC operations under the "BBC" trade name in an application filed January 23, 2013, in Case No. AP-2013-019. A decision is pending in that proceeding.

II. UNLAWFUL CONDUCT

The record in the 2012 Best Bus Company trade name application shows that the application fee was paid by check drawn on the account of "BBC Express/Abes Limo". This would appear to violate the admonition in WMATC Order No. 13,258 that Best Bus Company keep its finances completely separate from those of BBC Express.

By letter dated October 18, 2012, Best Bus Company was directed to explain why the application fee was paid by BBC Express/Abe's Limo and to submit proof that the joint BBC Express/Abe's Limo bank account had been dissolved and replaced by separate accounts for these two companies. Best Bus Company did neither.

Although the application fee for Best Bus Company's latest application was paid by check drawn on Best Bus Company's account, the check is drawn on the same bank and displays the same account number

¹⁷ *In re Best Bus Co.*, No. AP-12-053, Order No. 13,258 (May 9, 2012).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *See id.*

²¹ *In re Best Bus Co.*, No. AP-12-150, Order No. 13,616 (Nov. 30, 2012).

²² *See* Order No. 13,258 (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); *see also* Commission Reg. No. 66-01 (failure to comply with conditions of grant within 180 days voids approval).

as the BBC Express/Abe's Limo check submitted in payment of the 2012 trade name application, which would appear to constitute continued commingling of assets in violation of WMATC Order No. 13,258.²³

More troubling is the BBC Express website.²⁴ The website displays various vehicles marked "BBC Charter and Limo". At least one of those vehicles also displays "WMATC 227". This would appear to violate the admonition in WMATC Order No. 12,238 that BBC Charter and Limo keep its assets and operations completely separate from those of BBC Express and that these carriers may not share revenue vehicles or operating authority, and it implicates violations of WMATC Regulation No. 63 regarding advertising. Alternatively, if BBC Express is operating BBC Charter and Limo vehicles, this may be evidence of violation of Regulation No. 61 regarding vehicle markings and/or Regulation No. 62 regarding vehicle leases.

The website also accepts reservations for "Abe's Limousine & Tours". Although no WMATC order expressly cautions Abe's Limo against violating the Compact and Commission regulations thereunder, this advertising link between BBC Express and Abe's Limo implicates violations of Article XI, Section Nos. 6(a) and 11(b), of the Compact, requiring carriers operating in the Metropolitan District to obtain WMATC authority and prohibiting carriers from operating under WMATC authority granted to others, respectively, and it implicates violations of WMATC Regulation No. 63 regarding advertising. Alternatively, if BBC Express is operating the Abe's Limo vehicles, this would be evidence of a violation of Regulation No. 62 regarding vehicle leases.

III. ORDER TO IDENTIFY OFFICERS & PRODUCE VEHICLES/DOCUMENTS

For the purpose of an investigation or other proceeding under this Act, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.²⁵

The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.²⁶

Respondents will be required to: (1) identify their owners, officers, etc.; (2) present their vehicles for inspection by Commission staff; and (3) produce copies of their business records from January 1, 2010, to present.

²³ Best Bus Company has produced some bank records showing the account in question was opened in October 2011 as a Best Bus Company account, but Best Bus Company does not explain why "BBC Express/Abe's Limo", and not "Best Bus Company", appears on the face of the check drawn against that account and submitted in payment of the 2012 Best Bus Company trade name application.

²⁴ <http://www.bbcexpress.com>.

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

²⁶ Compact, tit. II, art. XII, § 1(b).

In the meantime, we will stay Case No. AP-2013-019 until this investigation has concluded.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondents' operations in the Washington Metropolitan Area Transit District are hereby initiated under Article XIII, Section 1, of the Compact.

2. That Case No. AP-2013-019 is hereby stayed until this investigation has concluded.

3. That each respondent is hereby directed to submit within 30 days a list of all owners, officers, directors, and managing members, as applicable, and that the list shall include corresponding addresses and phone numbers.

4. That each respondent is hereby directed to submit within 15 days a list of all vehicles in its possession, custody, or control and copies of the corresponding registrations.

5. That each respondent is hereby directed to present within 30 days for inspection by Commission staff all vehicles in its possession, custody, or control.

6. That each respondent shall, within 30 days from the date of this order, produce any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within its possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning January 1, 2010, and ending on the date of this order, including, but not limited to any and all:

- a. customer contracts and invoices;
- b. calendars and itineraries;
- c. bank and credit card records.

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



William S. Morrow, Jr.
Executive Director