

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,018

IN THE MATTER OF:

Served June 19, 2013

SHIRLINGTON LIMOUSINE & )  
TRANSPORTATION, INC., Suspension )  
and Investigation of Revocation of )  
Certificate No. 259 )

Case No. MP-2012-062

SHIRLINGTON LIMOUSINE & )  
TRANSPORTATION, INC., Suspension )  
and Investigation of Revocation of )  
Certificate No. 259 )

Case No. MP-2013-013

This matter is before the Commission on respondent's failure to respond to Order No. 13,606, served November 29, 2012, in Case No. MP-2012-062, and Order No. 13,681, served January 10, 2013, in Case No. MP-2013-013.

Order No. 13,606 directed respondent to show cause within 30 days why the Commission should not assess a civil forfeiture against respondent and/or suspend or revoke Certificate No. 259.

Order No. 13,681 directed respondent to cease operating immediately and gave respondent 30 days to replace a canceled WMATC Insurance Endorsement and pay a \$100 late insurance fee or face revocation of Certificate No. 259.

These cases are being consolidated under Commission Rule 20-02 because of the issue of revocation common to both proceedings.

**I. HISTORY OF CASE NO. MP-2012-062**

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."<sup>1</sup> A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.<sup>2</sup>

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 259 for a minimum of \$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

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<sup>1</sup> Compact, tit. II, art. XI, § 6(a).

<sup>2</sup> Compact, tit. II, art. XI, § 7(g).

a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 259 was rendered invalid on June 3, 2012, when the \$1.5 million primary and \$3.5 million excess WMATC Insurance Endorsements on file for respondent terminated without replacement. Order No. 13,303, served June 4, 2012, noted the automatic suspension of Certificate No. 259 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 259, and gave respondent 30 days to replace the terminated endorsements and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 259. Respondent failed to timely respond, and Certificate No. 259 was revoked on July 23, 2012, in Order No. 13,358.

Respondent later paid the late fee and submitted a \$1.5 million primary WMATC Endorsement and a \$3.5 million excess WMATC Endorsement, and Certificate No. 259 was reinstated in Order No. 13,414, served August 23, 2012, but because the effective date of the excess endorsement was June 21, 2012, instead of June 3, 2012, the order gave respondent 30 days to verify cessation of operations as of June 3, 2012, in accordance with Regulation No. 58-14. The statement was to be corroborated by copies of respondent's pertinent business records. Respondent did not respond.

Accordingly, Order No. 13,606 gave respondent until December 29, 2012, to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 259, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

Respondent has yet to respond.

## **II. HISTORY OF CASE NO. MP-2013-013**

The \$1.5 million primary and \$3.5 million excess WMATC Insurance Endorsements that supported reinstating Certificate No. 259 in Case No. MP-2012-062 terminated without replacement on January 10, 2013. Order No. 13,681, served January 10, 2013, noted the automatic suspension of Certificate No. 259 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 259, and gave respondent until February 9, 2013, to replace the terminated endorsements and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 259.

Respondent has yet to respond.

## **III. ASSESSMENT OF FORFEITURE**

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.<sup>3</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>4</sup> The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by intentional or careless disregard or plain indifference.<sup>5</sup>

We will assess a forfeiture of \$250 for respondent's knowing and willful failure to produce documents as directed by Order No. 13,414 in Case No. MP-2012-062.<sup>6</sup>

#### IV. REVOCATION OF AUTHORITY

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.<sup>7</sup>

We shall revoke Certificate No. 259 for respondent's willful failure to maintain on file with the Commission an effective WMATC Insurance Endorsement.<sup>8</sup> The \$100 late insurance fee shall remain due.

In addition, we note that respondent has yet to comply with the requirements in Regulation Nos. 60-01 and 67-02 that respondent tender on or before January 31, 2013, a 2013 annual report and \$150 annual fee. The annual report and fee shall remain due, along with \$300 in associated late fees mandated by Regulation No. 67-03(a),(b).

THEREFORE, IT IS ORDERED:

1. That Case Nos. MP-2012-062 and MP-2013-013 are hereby consolidated pursuant to Rule No. 20-02.

2. 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 Order No. 13,606.

3. That respondent's 2013 annual report and \$550 in fees shall remain due under Regulation Nos. 60 and 67, respectively.

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<sup>3</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>4</sup> *In re Ibrahim A. Fahadi*, No. MP-07-117, Order No. 12,094 (July 17, 2009).

<sup>5</sup> *Id.*

<sup>6</sup> See *id.* (assessing \$250 for failure to timely produce documents).

<sup>7</sup> Compact, tit. II, art. XI, § 10(c).

<sup>8</sup> See Order No. 12,094 (same).

4. That respondent is hereby directed to pay to the Commission within 30 days of the date of this order, by check or money order, the sum of eight hundred dollars (\$800).

5. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 259 is hereby revoked for respondent's willful failure to comply with Regulation No. 58.

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

- a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- b. file a notarized affidavit and supporting photograph(s) with the Commission verifying compliance with the preceding requirement; and
- c. surrender Certificate No. 259 to the Commission.

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



William S. Morrow, Jr.  
Executive Director