

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,021

IN THE MATTER OF:

Served June 20, 2013

DESTINY TOURS, LLC, Suspension and )  
Investigation of Revocation of )  
Certificate No. 1065 )

Case No. MP-2012-103

DESTINY TOURS, LLC, Suspension and )  
Investigation of Revocation of )  
Certificate No. 1065 )

Case No. MP-2013-017

This matter is before the Commission on respondent's failure to respond to Order No. 13,702, served January 23, 2013, in Case No. MP-2012-103, and Order No. 13,689, served January 17, 2013, in Case No. MP-2013-017.

Order No. 13,702 gave respondent 30 days to file a certain statement and produce certain documents.

Order No. 13,689 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. 1065.

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

**I. HISTORY OF CASE NO. MP-2012-103**

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. 1065 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 a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

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

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

Certificate No. 1065 was rendered invalid on October 25, 2012, when the \$5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 13,559 noted the automatic suspension of Certificate No. 1065 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1065, and gave respondent 30 days to replace the terminated endorsement and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1065.

Respondent thereafter paid the late fee and submitted \$1 million primary and \$4 million excess WMATC Insurance Endorsements, and the suspension was lifted in Order No. 13,599, served November 28, 2012, but because the effective date of the new endorsements was October 31, 2012, instead of October 25, 2012, the order gave respondent 30 days to verify cessation of operations as of October 25, 2012, in accordance with Regulation No. 58-14. And because respondent's only tariff was for service rendered to the public, the order gave respondent 30 days to corroborate the verification with copies of respondent's pertinent business records.

Respondent submitted the statement of its president, Eddie Soto, on December 26, 2012. The statement appeared to claim that respondent did not operate "between October 1st, 2012 and November 28th, 2012." The next day, December 27, 2012, respondent submitted copies of checking account statements for October and November 2012. The statements, however, were for the account(s) of "Destiny Travel and Tours LLC", not "Destiny Tours, LLC". Furthermore, only odd-numbered pages were submitted. Even-numbered pages were missing. Finally, except for individual transaction entries, the statements were in Spanish. Respondent submitted no other documents.

According to the website of the Virginia State Corporation Commission, (VASCC),<sup>3</sup> Destiny Travel and Tours LLC was formed on April 25, 2012. And according to the VASCC and the bank statements furnished by respondent, Destiny Travel and Tours LLC occupies the same premises in Woodbridge, Virginia, as respondent.

Accordingly, Order No. 13,702 gave respondent until February 22, 2013, to explain its relationship to Destiny Travel and Tours LLC and to explain its relationship with Sprinter Bus LLC, which is the name appearing on the check tendered in payment of respondent's \$100 late-insurance fee.

In addition, because respondent clearly had access to bank statements for Destiny Travel and Tours LLC, Order No. 13,702 also gave respondent until February 22, 2013, to produce, in English, all bank statements for that entity from April 25, 2012, to January 23, 2013, and to produce the signature card(s) used to open the Destiny Travel and Tours LLC account(s).

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<sup>3</sup> <http://www.scc.virginia.gov/>.

Order No. 13,702 further reminded respondent that Order No. 13,599 directed respondent to produce copies of all business records in its possession, custody, or control, not just bank statements, and Order No. 13,702 expanded the scope of production to include business records from April 1, 2012, to January 23, 2013.

Respondent has yet to respond.

## **II. HISTORY OF CASE NO. MP-2013-017**

The \$1 million primary WMATC Insurance Endorsement that supported lifting the suspension in Case No. MP-2012-103 terminated without replacement on January 17, 2013. Order No. 13,689, served January 17, 2013, noted the automatic suspension of Certificate No. 1065 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1065, and gave respondent until February 16, 2013, to replace the terminated endorsement and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1065.

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>4</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>5</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>6</sup>

We will assess a forfeiture of \$250 for respondent's knowing and willful failure to produce documents as directed by Order Nos. 13,599 and 13,702 in Case No. MP-2012-103.<sup>7</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>8</sup>

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<sup>4</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>5</sup> *In re Ibrahim A. Fahadi*, No. MP-07-117, Order No. 12,094 (July 17, 2009).

<sup>6</sup> *Id.*

<sup>7</sup> See *id.* (assessing \$250 for failure to timely produce documents).

<sup>8</sup> Compact, tit. II, art. XI, § 10(c).

We shall revoke Certificate No. 1065 for respondent's willful failure to maintain on file with the Commission an effective WMATC Insurance Endorsement.<sup>9</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-2012-103 and MP-2013-017 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 Nos. 13,599 and 13,702.

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

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. 1065 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. 1065 to the Commission.

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



William S. Morrow, Jr.  
Executive Director

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<sup>9</sup> See Order No. 12,094 (same).