

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,022

IN THE MATTER OF:

Served June 20, 2013

OKAAS LLC, Suspension and )  
Investigation of Revocation of )  
Certificate No. 1839 )

Case No. MP-2012-079

OKAAS LLC, Suspension and )  
Investigation of Revocation of )  
Certificate No. 1839 )

Case No. MP-2013-033

This matter is before the Commission on respondent's failure to respond to Order No. 13,696, served January 23, 2013, in Case No. MP-2012-079, and Order No. 13,786, served March 11, 2013, in Case No. MP-2013-033.

Order No. 13,696 gave respondent 30 days to verify cessation of operations as of September 12, 2012, and corroborate with pertinent business records.

Order No. 13,786 directed respondent to cease operating immediately and gave respondent 30 days to replace its canceled WMATC Insurance Endorsements and pay a \$100 late insurance fee or face revocation of Certificate No. 1839.

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-2012-079**

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. 1839 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.

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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. 1839 was rendered invalid on September 12, 2012, when the WMATC Insurance Endorsements on file for respondent terminated without replacement. Order No. 13,476, served September 12, 2012, noted the automatic suspension of Certificate No. 1839 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1839, 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. 1839. Respondent failed to timely respond, and Certificate No. 1839 was revoked on November 27, 2012, in Order No. 13,593.

Respondent later paid the late fee and submitted the necessary WMATC Endorsements, and Certificate No. 1839 was reinstated in Order No. 13,696, served January 23, 2013, but because the effective date of the replacement endorsements was December 17, 2012, instead of September 12, 2012, the order gave respondent until February 22, 2013, to verify cessation of operations as of September 12, 2012, in accordance with Regulation No. 58-14. The statement was to be corroborated by copies of respondent's pertinent business records.

Respondent has yet to respond.

## **II. HISTORY OF CASE NO. MP-2013-033**

The WMATC Insurance Endorsements that supported reinstating Certificate No. 1839 in Case No. MP-2012-079 terminated without replacement on March 10, 2013. Order No. 13,786, served March 11, 2013, noted the automatic suspension of Certificate No. 1839 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1839, and gave respondent until April 10, 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. 1839.

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;

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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).

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. 13,696 in Case No. MP-2012-079.<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. 1839 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-2012-079 and MP-2013-033 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. 13,696.

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. 1839 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:

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<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).

- 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. 1839 to the Commission.

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



William S. Morrow, Jr.  
Executive Director