

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,027

IN THE MATTER OF:

Served June 20, 2013

HOME LIFE HELP SERVICES, LLC, WMATC)
No. 1607, Investigation of)
Violation of WMATC Regulation)
Nos. 58 & 60-64)

Case No. MP-2013-084

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: (a) provide safe and adequate transportation service, equipment, and facilities; and (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; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports. 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. BACKGROUND

Respondent's 2012 annual report lists two Dodge vans with for-hire plates issued by the State of Maryland. Respondent's 2013 annual report lists the same two Dodge vans, but the plate number has changed on one of them. According to the Maryland Motor Vehicle Administration, (MVA), the van with the new plates is not registered in respondent's name. It is registered to Wells Fargo Equipment Finance. Under WMATC Regulation No. 62, a WMATC carrier may operate a vehicle not titled in the carrier's name, but only if a copy of a lease covering that vehicle is on file with the Commission. The Commission has no record of any lease having been filed by respondent for this vehicle.

In addition, MVA records show a sedan registered to respondent's owner/CEO, Mr. David Kerr, that is not listed in respondent's 2013 annual report and has not been reported to respondent's WMATC insurance company of record, Selective Insurance Company of America. In and of itself, this is not necessarily a violation of WMATC Regulation Nos. 60 (annual reports) and 58 (insurance). But during an informal investigation in 2011, the Commission received a photo showing the same sedan displaying a removable sign advertising "Home Life Help". This raises the issue of whether this vehicle has been used in WMATC operations and whether the removable sign complies with WMATC Regulation Nos. 61 (vehicle markings) and 63 (advertising).

Maryland MVA records also show a van registered to Mr. Kerr that likewise is not listed on respondent's 2013 annual report and has not been reported to Selective Insurance Company - not necessarily a violation of Regulation Nos. 58 and 60, but under the circumstances deserving of inquiry.

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).

Finally, Selective Insurance Company lists four drivers it has approved to operate the two vans that respondent has reported to it. It could be that two drivers are backup drivers and/or that one or more drive only part time. But four drivers is also consistent with respondent operating four vehicles - two having been reported to WMATC and Selective and two having not. This raises questions regarding respondent's compliance with the for-hire plate requirements and driver record requirements of WMATC Regulation No. 64.

II. ORDER TO PRODUCE 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.¹¹

The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.¹²

Respondent and Mr. Kerr will be directed to present vehicles for inspection and to produce any and all removable vehicle displays and copies of all vehicle-related records for the period beginning January 1, 2013, and ending on the date of this order.

THEREFORE, IT IS ORDERED:

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

2. That respondent and its owner/CEO, Mr. David Kerr, are hereby directed to submit within 15 days a list of all vehicles in their possession, custody, or control and copies of the corresponding registrations and vehicle safety inspection certificates.

3. That respondent and its owner/CEO, Mr. David Kerr, are hereby directed to present within 30 days for inspection by Commission staff all vehicles in their possession, custody, or control.

4. That respondent and its owner/CEO, Mr. David Kerr, are hereby directed to produce within 30 days any and all removable vehicle displays in their possession, custody, or control.

5. That respondent and its owner/CEO, Mr. David Kerr, shall, within 30 days from the date of this order, produce any and all books,

¹¹ Compact, tit. II, art. XIII, § 1(e).

¹² Compact, tit. II, art. XII, § 1(b).

papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within their 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, 2013, 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. vehicle insurance records and correspondence;
- d. driver records, including but not limited to payroll records, driver payment summaries, forms W-2 and 1099, and state motor vehicle driving records;
- e. daily, weekly, and monthly trip logs; and
- f. bank and credit card records.

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



William S. Morrow, Jr.
Executive Director