

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,189

IN THE MATTER OF: Served August 26, 2013

THE SAMARITAN TRANSPORTATION INC.,) Case No. MP-2012-113
Suspension and Investigation of)
Revocation of Certificate No. 1854)

THE SAMARITAN TRANSPORTATION INC.,) Case No. MP-2013-094
Suspension and Investigation of)
Revocation of Certificate No. 1854)

This matter is before the Commission on respondent's failure to respond to Order No. 14,023, served June 20, 2013, in Case No. MP-2012-113, and respondent's failure to comply with Order No. 14,056, served July 8, 2013, in Case No. MP-2013-094.

Order No. 14,023 gave respondent until July 22, 2013, to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 1854, for respondent's violation of the Compact, the Commission's insurance regulation, Regulation No. 58, and the orders issued in Case No. MP-2012-113. Respondent has yet to respond.

Order No. 14,056 noted the suspension of Certificate No. 1854 for respondent's renewed violation of Regulation No. 58 and gave respondent until August 7, 2013, to bring its operations into compliance or face revocation of Certificate No. 1854. Respondent has yet to comply.

These proceedings are being consolidated under Rule No. 20-02 because they share common issues of fact and law.

I. BACKGROUND

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." A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 1854 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.

A. Case No. MP-2012-113

Certificate No. 1854 was rendered invalid on December 15, 2012, when the \$1 million excess WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 13,645, served December 27, 2012, noted the automatic suspension of Certificate No. 1854 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1854, 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. 1854.

Respondent subsequently paid the late fee and submitted a new \$1 million excess WMATC Insurance Endorsement, and the suspension was lifted in Order No. 13,782 on March 5, 2013, but because the effective date of the new endorsement is December 26, 2012, instead of December 15, 2012, the order gave respondent 30 days to verify cessation of operations as of December 15, 2012, in accordance with Regulation No. 58-14. And because respondent's only tariff is 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 did not respond.

Considering that respondent had not denied operating its vehicle(s) on and after the suspension date, and considering that respondent had failed to produce the required documents, Order No. 14,023, served June 20, 2013, gave respondent 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1854, 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 to Order No. 14,023.

B. Case No. MP-2013-094

While Case No. MP-2012-113 was pending, the WMATC Endorsements on file for respondent terminated without replacement on July 6, 2013. The Commission responded by issuing Order No. 14,056 on July 8. The order noted the automatic suspension of Certificate No. 1854 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1854, 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. 1854. Respondent has yet to respond to comply.

II. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY

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.¹

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.²

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.³ 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.⁴

We will assess a forfeiture of \$250 for respondent's knowing and willful failure to produce documents as directed by Order No. 13,782.⁵

In addition, we shall revoke Certificate No. 1854 for respondent's willful failure to comply with Regulation No. 58 and Order Nos. 13,782 and 14,056.

THEREFORE, IT IS ORDERED:

1. That Case Nos. MP-2012-113 and MP-2013-094 are hereby consolidated under 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 failing to produce documents as directed by Order No. 13,782.

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 1854 is hereby revoked for respondent's willful failure to comply with Regulation No. 58 and Order Nos. 13,782 and 14,056.

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

a. pay to the Commission by money order or check, the sum of two hundred fifty dollars (\$250);

b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;

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

² Compact, tit. II, art. XI, § 10(c).

³ *In re Epps Transp. Co., Inc.*, No. MP-08-124, Order No. 11,935 at 3 (Apr. 9, 2009).

⁴ *Id.* at 3.

⁵ *See id.* at 3 (same).

c. file a notarized affidavit and supporting photograph(s) with the Commission verifying compliance with the preceding requirement; and

d. surrender Certificate No. 1854 to the Commission.

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

A handwritten signature in black ink, appearing to read 'W.S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.
Executive Director