

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,951

IN THE MATTER OF:

Served July 28, 2014

Application of US VIP LIMOUSINE,)
LLC, for a Certificate of Authority)
-- Irregular Route Operations)

Case No. AP-2014-085

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.¹

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Normally, such evidence would establish an applicant's fitness,² but in this case, applicant's owner, Florent Kuete Songwa, is in Chapter 13 bankruptcy. This calls into question applicant's ability to sustain operations for one year,³ the standard for

¹ *In re Legacy 2 Limo., LLC*, No. AP-13-048, Order No. 14,163 (Aug. 19, 2013); *In re Chima A. Ezidinma, t/a Peaceful Transp.*, No. AP-03-125, Order No. 7498 (Oct. 29, 2003).

² Order No. 14,163; *In re Elias Tsegaye Mekuria, t/a Mekuria Transp.*, No. AP-07-057, Order No. 10,550 (June 13, 2007).

³ Order No. 14,163; *See In re Four Points Transp. & Moving Inc.*, No. AP-12-111, Order 13,695 (Jan. 23, 2013) (president's recent emergence from bankruptcy raises question of applicant's financial fitness).

determining financial fitness.⁴ The bankruptcy status of applicant's owner does not necessarily preclude a finding of financial fitness, but it is cause for looking behind applicant's fitness averment before making a determination that applicant is indeed financially fit.⁵

Chapter 13 of the U.S. Bankruptcy Code allows an individual in financial distress to obtain relief from creditors by agreeing to a 3-5 year repayment plan approved by the bankruptcy court.⁶ The plan is administered by a court-appointed trustee who collects payments from the debtor and disburses funds to creditors in accordance with the plan.⁷ The creditors may receive less than full payment under the plan.⁸ Upon the debtor's successful completion of the plan, the court will grant the debtor a discharge of all debts provided for by the plan.⁹

In the application of *Chima A. Ezidinma, t/a Peaceful Transp.*, No. AP-03-125, Order No. 7498 (Oct. 29, 2003), the Commission denied operating authority to an applicant in Chapter 13 bankruptcy because the court had yet to approve a repayment plan, and thus the record did not warrant a finding that applicant had the means to acquire one or more acceptable vehicles and the minimum required insurance, and because the applicant had been reprimanded by the bankruptcy court for not following procedure.¹⁰ In this case, the court has approved a payment plan, and there is no evidence that would suggest Mr. Songwa is not cooperating with the plan trustee. It further appears that applicant has maintained sufficient insurance to retain contract passenger carrier Certificate No. 1210 issued by the Virginia Department of Motor Vehicles. The instant record thus supports a finding of financial fitness.¹¹

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 2577 shall be

⁴ Order No. 14,163; Order No. 10,550 n.2 (citing *In re City Sightseeing USA Inc.*, No. AP-04-39, Order No. 8042 at 3 (June 1, 2004)).

⁵ Order No. 14,163; Order No. 13,695 at 2.

⁶ 11 U.S.C. § 1322(d).

⁷ 11 U.S.C. §§ 1302, 1322(a), 1326.

⁸ 11 U.S.C. § 1322(b).

⁹ 11 U.S.C. § 1328.

¹⁰ Order No. 7498 at 2.

¹¹ See Order No. 14,163 (LLC applicant found fit where owner's Chapter 13 plan approved and evidence of existing insurance).

issued to US VIP Limousine, LLC, 9136 Edmonston Court, #201, Greenbelt, MD 20770-4546.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to present its revenue vehicle(s) for inspection and file the following documents within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; and (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

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



William S. Morrow, Jr.
Executive Director