

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,133

IN THE MATTER OF:

Served October 21, 2014

DEREJE BOGALE WORBELO, Trading as)
WORBELO LIMO SERVICE, Suspension)
and Investigation of Revocation of)
Certificate No. 2290)

Case No. MP-2014-005

This matter is before the Commission on respondent's response to Order No. 14,812, served June 5, 2014, which directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent and/or suspend or revoke Certificate No. 2290.

I. BACKGROUND

Certificate No. 2290 was automatically suspended on January 11, 2014, pursuant to Regulation No. 58-12 when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 14,476, served January 13, 2014, noted the automatic suspension of Certificate No. 2290, directed respondent to cease transporting passengers for hire under Certificate No. 2290, and gave respondent thirty 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. 2290.

Respondent paid the late fee on January 30, 2014, and submitted a \$1.5 million primary WMATC Insurance Endorsement on February 3, 2014, and the suspension was lifted in Order No. 14,543, on February 4, 2014, but because the effective date of the new endorsement was January 23, 2014, instead of January 11, 2014 - thereby creating a 12-day coverage gap - Order No. 14,543 gave respondent until March 6, 2014, to submit a statement verifying cessation of operations as of January 11, 2014, as corroborated by copies of respondent's pertinent business records, in accordance with Regulation No. 58-14.

Respondent produced no statement regarding cessation of operations. Respondent, however, did produce a new \$1.5 million WMATC Insurance Endorsement with an effective date of January 10, 2014, which eliminates the 12-day gap created by the Endorsement filed February 3, 2014. But elimination of the coverage gap does not alter the fact that Certificate No. 2290 was suspended from January 11, 2014, through February 3, 2014.

Accordingly, Order No. 14,812 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. 2290, for

conducting passenger carrier operations in the Metropolitan District while suspended in knowing and willful violation of Article XI, Section 6(a), of the Compact and Regulation No. 58.

Respondent responded to Order No. 14,812 on June 13, 2014, but instead of submitting a statement indicating whether respondent discontinued operations during the suspension period, respondent produced copies of bank statements and manifests that appear to confirm respondent continued operating throughout the suspension period.

II. FINDINGS AND ASSESSMENT OF FORFEITURE

Respondent's bank statements show deposits from Uber Technologies, Inc., for passenger carrier service rendered during the suspension of Certificate No. 2290. Applicant's Uber manifests show that applicant operated on 23 days during the suspension of Certificate No. 2290.

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 Each day of the violation constitutes a separate violation.²

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.³

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁴ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard of whether or not one has the right so to act.⁵

In situations similar to this one - operating while suspended but not while uninsured - the Commission has assessed a civil forfeiture of \$250 for each day of unauthorized operations and placed carriers on probation for one year.⁶ We shall follow the same course here and assess a civil forfeiture of \$250 per day, for 23 days, or \$5,750, and place respondent on probation.

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

² Compact, tit. II, art. XIII, § 6(f)(ii).

³ Compact, tit. II, art. XI, § 10(c).

⁴ *In re Grace Transp. Servs., Inc.*, No. MP-13-053, Order No. 14,603 at 3 (Feb. 26, 2014).

⁵ *Id.* at 3-4.

⁶ *Id.* at 4.

We will suspend all but 25 percent of the forfeiture, rounded to the nearest \$100, or \$1,400, based on the presence of one reduction factor: respondent's production of inculpatory records.⁷ Failure to pay the net forfeiture in a timely fashion shall result in reinstatement of the full \$5,750.

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$5,750 for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58-12, and Order No. 14,476 on 23 separate days; provided, that all but \$1,400 shall be suspended in recognition of respondent's production of inculpatory records.

2. 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 one thousand four hundred dollars (\$1,400).

3. That the full forfeiture of \$5,750 assessed in this order shall be immediately due and payable if respondent fails to timely pay the net forfeiture of \$1,400.

4. That respondent shall be placed on probation for a period of one year, such that a willful violation of the Compact, or of the Commission's rules, regulations, or orders thereunder, by respondent during the period of probation shall constitute grounds for immediate suspension and/or revocation of respondent's operating authority regardless of the nature and severity of the violation.

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



William S. Morrow, Jr.
Executive Director

⁷ See *id.* at 4 (same).