

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,268

IN THE MATTER OF:

Served December 30, 2014

PRIME TRANSPORTATION SERVICES, INC,)
Suspension and Investigation of)
Revocation of Certificate No. 749)

Case No. MP-2014-031

This matter is before the Commission on respondent's response to Order No. 15,068, served September 18, 2014.

I. BACKGROUND

Certificate No. 749 was automatically suspended on February 21, 2014, pursuant to Regulation No. 58-12, when the \$5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 14,586, served February 21, 2014, noted the automatic suspension of Certificate No. 749, directed respondent to cease transporting passengers for hire under Certificate No. 749, 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. 749.

Respondent paid the late fee and submitted a \$5 million WMATC Insurance Endorsement, and the suspension was lifted in Order No. 14,673, on April 2, 2014, but because the effective date of the new endorsement is March 7, 2014, instead of February 21, 2014, the order gave respondent 30 days to verify cessation of operations as of February 21, 2014, as corroborated by copies of respondent's pertinent business records, in accordance with Regulation No. 58-14. Respondent did not respond.

Because respondent failed to verify cessation of operations on and after the suspension date and failed to produce any documents, Order No. 15,068, served September 18, 2014, directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 749, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

II. RESPONSE TO ORDER NO. 15,068

We now have the statement of respondent's corporate counsel, Charles Tucker, Jr., but his statement does not unequivocally state whether respondent ceased operating as of February 21, 2014. And Mr. Tucker's statement is not corroborated by respondent's business records.

According to Mr. Tucker, "Prime Transportation Services never knowingly operated any vehicle for under Certificate No. 749 knowing that the Certificate had been suspended." This assertion leaves open the possibility that respondent continued operating during the suspension period, just not "knowingly" in Mr. Tucker's estimation, which he bases on a "review of all of the records related to Certificate No. 749."

Whether a carrier has knowingly operated in violation of the Compact is for the Commission to decide, not the carrier or its attorney. We will not accept Mr. Tucker's reading of respondent's business records in lieu of the records themselves.

III. OPPORTUNITY TO SUPPLEMENT RECORD

When the signatories and Congress approved the Compact, they designated noncompliance with Commission insurance requirements as the single offense that would automatically invalidate a certificate of authority.¹ "They could not have sent a clearer message that maintaining proper insurance coverage is of paramount importance under the Compact."²

"If the record shows [a] carrier operated while suspended and uninsured or underinsured, the Commission will issue an order assessing a civil forfeiture and revoking the carrier's operating authority."³

Given the gravity of the possible offenses at issue in this proceeding and the incomplete state of the record, we will give respondent one final opportunity to unequivocally confirm or deny that respondent conducted WMATC operations during the suspension of Certificate No. 749 from February 21, 2014, to April 2, 2014. And respondent shall have one final opportunity to produce copies of its pertinent business records.

Failure to produce said statement and records shall result in assessment of a civil forfeiture against respondent and revocation of WMATC Certificate No. 749.⁴

¹ Compact, tit. II, art. XI, § 7(g).

² *In re Christopher Starghill, t/a Starghill Limo. & Sedan Servs.*, No. MP-13-029, Order No. 14,257 (Oct. 1, 2013); *In re Couples, LLC, t/a Couples Limos.*, No. MP-09-134, Order No. 12,330 (Mar. 8, 2010); *In re Skyhawk Logistics, Inc.*, No. MP-09-044, Order No. 12,101 (July 24, 2009); *In re Westview Med. & Rehab. Servs., P.C. Inc.*, No. MP-07-070, Order No. 10,882 (Nov. 2, 2007).

³ Order No. 14,257 at 3; *In re Rulemaking to Amend Rules of Prac. & Proc. & Regs.*: Reg. No. 58, No. MP-08-017, Order No. 11,077 at 11 (Jan. 14, 2008).

⁴ See Order No. 14,257 at 3-4 (same).

THEREFORE, IT IS ORDERED:

1. That within 30 days from the date of this order, respondent shall verify that respondent ceased all operations in the Metropolitan District from February 21, 2014, to April 2, 2014.

2. That within 30 days from the date of this order, respondent shall produce any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within respondent's possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District by respondent during the period beginning December 1, 2013, and ending April 2, 2014, including, but not limited to any and all:

- a. customer contracts and invoices;
- b. calendars and itineraries;
- c. bank and credit card statements.

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



William S. Morrow, Jr.
Executive Director