

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,419

IN THE MATTER OF:

Served March 3, 2015

HLR COURIER AND SHUTTLE, LLC, )  
Suspension and Investigation of )  
Revocation of Certificate No. 1723 )

Case No. MP-2013-120

This matter is before the Commission on respondent's response to Order No. 14,467, served January 8, 2014, which directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 1723 for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

**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."<sup>1</sup> A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.<sup>2</sup>

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 1723 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.

Certificate No. 1723 was rendered invalid on September 22, 2013, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 14,217, served September 24, 2013, noted the automatic suspension of Certificate No. 1723 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1723, 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. 1723.

Respondent subsequently paid the late fee and submitted a new \$1.5 million WMATC Insurance Endorsement, and the suspension was lifted in Order No. 14,259 on October 3, 2013. But because the effective date of the new endorsement is September 25, 2013, instead of September 22, 2013, the order gave respondent 30 days to verify

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<sup>1</sup> Compact, tit. II, art. XI, § 6(a).

<sup>2</sup> Compact, tit. II, art. XI, § 7(g).

cessation of operations as of September 22, 2013, and to corroborate the verification with copies of respondent's pertinent business records, in accordance with Regulation No. 58-14. Specifically, the order provided:

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 during the period beginning July 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. bank and credit card statements.

Respondent did not respond to Order No. 14,259. Accordingly, Order No. 14,467 gave respondent thirty days to show cause why the Commission should not assess a civil forfeiture and revoke Certificate No. 1723.

## **II RESPONSE TO ORDER NO. 14,467**

Respondent's president, Lorenzo Robinson, filed statements on January 28, January 29, April 28, August 8, and October 21, 2014. The statements filed January 28 and 29, 2014, were unsigned and were not verified under oath as required by Rule Nos. 4-05 and 4-06, and will not be considered.

Respondent's April 28, 2014 statement denies that respondent transported passengers for hire while suspended. According to the statement, "[t]he Revenue vehicle a 2006 Chrysler Town and Country Van was not operated during the lapse period within WMATC's jurisdiction or anywhere else in Prince Georges or Montgomery County, Maryland, Washington DC and Northern Virginia and remained parked until this matter was resolved." The statement continues, "HLR Courier and Shuttle, LLC did not have any clients within WMATC jurisdiction and did not perform any business related duties during temporary suspension period."

The April 28, 2014 statement is supported by a timesheet and two pay stubs from Mr. Robinson's separate employment, unrelated to for-hire passenger transportation by respondent. Those documents, along with an additional timesheet, paystub, and a copy of a paycheck that accompanied the statements filed on August 8 and October 21,

2014, show that Mr. Robinson worked substantial hours in a separate job during much of the 12-day suspension period. According to the timesheets, Mr. Robinson worked at least 11 hours in a separate job on September 22, 23, and 24, 2013, when respondent was suspended and uninsured. The timesheets also indicate Mr. Robinson worked 12 hours per day on September 25, 26, and 27, 2013, and 5 hours on September 28, 2013. The records indicate Mr. Robinson did not work at his other job on September 29, 2013, and do not account for the remainder of respondent's suspension period, from September 30 to October 3, 2013.

Respondent's statements, however, do not explain respondent's failure to produce the business records specified in Order No. 14,259.

### III. FINDINGS AND ASSESSMENT OF FORFEITURE

According to records independently obtained from respondent's insurance company and respondent's annual report filings, respondent utilized a single vehicle and a single driver, Mr. Robinson, around the relevant time period. The records produced by respondent show that Mr. Robinson was engaged in other activities during much of the suspension period. This tends to corroborate respondent's sworn statement that respondent did not operate during the suspension period. Therefore, we find that respondent has shown cause for not revoking Certificate No. 1723.

However, respondent has not produced the records specified in Order No. 14,259 and has not offered any explanation for its failure to do so. This lack of records deprives the Commission of the ability to independently verify that respondent ceased operations during the suspension period.

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.<sup>3</sup> Each day of the violation constitutes a separate violation.<sup>4</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>5</sup> The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard whether or not one has the right so to act.<sup>6</sup>

Because respondent has offered no explanation for failing to timely produce copies of its pertinent business as directed by Order

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<sup>3</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>4</sup> Compact, tit. II, art. XIII, § 6(f)(ii).

<sup>5</sup> *In re Global Imex Inc.*, No. MP-07-135, Order No. 11,107 (Jan. 29, 2008).

<sup>6</sup> *Id.*

No. 14,259, we will assess a forfeiture of \$250 for knowingly and willfully violating Order No. 14,259.<sup>7</sup>

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 \$250 for knowingly and willfully violating Commission Order No. 14,259.

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 two hundred fifty dollars (\$250).

3. That Certificate No. 1723 shall be subject to revocation pursuant to Article XI, Section 10(c) of the Compact if respondent fails to timely comply with the requirements of this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.  
Executive Director

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<sup>7</sup> See *1st Choice Inv. Group, LLC, t/a It's About U*, No. MP-2008-013, Order No. 11,639 (assessing \$250 forfeiture for failing to timely respond to document request); *In re Global Imex Inc.*, No. MP-07-135, Order No. 11,107 (Jan. 29, 2008) (same); *In re Special People Transportation, LLC*, No. MP-06-103, Order No. 10,683 (Aug. 8, 2007) (assessing \$250 forfeiture in part for failing to timely respond to document request).