

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,488

IN THE MATTER OF:

Served April 7, 2015

Application of IVES TRANSPORTATION-) Case No. AP-2014-329
SALES AUTO REPAIR (TSAR) LLC,)
Trading as IVES, for a Certificate)
of Authority -- Irregular Route)
Operations)

This matter is before the Commission on applicant's response to Order No. 15,320, served January 12, 2015, which dismissed this proceeding for applicant's failure to furnish all information necessary for a full and fair examination of the application. Applicant has filed a request to reopen this proceeding.

I. CAUSE FOR DISMISSAL AND GROUNDS FOR REOPENING

Under the Compact, an application to obtain a certificate of authority shall be made in writing, verified, and shall contain the information required by the application form and accompanying instructions.¹ An applicant may be required to furnish any supplemental information necessary for a full and fair examination of the application.² Failure to comply with the Commission's application requirements warrants dismissal.³

By email dated November 28, 2014, and pursuant to Regulation No. 54-04(b), applicant was directed to furnish additional information necessary to a full and fair determination of this application. The additional information was due no later than December 12, 2014. The email cautioned applicant that failure to timely furnish the information would result in delay or dismissal of the application. On January 12, 2015, it appearing that applicant had failed to respond, this proceeding was dismissed in Order No. 15,320.

On January 17, 2015, applicant filed a request to reopen this proceeding, asserting that it had responded to the November 28 email on December 2, 2014. A subsequent search of the Commission's files revealed that applicant had indeed filed a response on December 2 and that the response had been misfiled. The response appears to complete the record.

¹ Compact, tit. II, art. XI, § 8; Regulation No. 54-02.

² Regulation No. 54-04(b).

³ *In re One, LLC, t/a Bon Voyage*, No. AP-04-103, Order No. 8212 (Aug. 5, 2004).

Accordingly, for good cause shown, this proceeding shall be reopened under Commission Rule No 26.⁴

II. APPLICATION

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. 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.

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,⁵ but in this case applicant's managing owner, Mr. Seka Ahoure, has a history of controlling a company with regulatory violations.

Mr. Ahoure was the managing owner of Milagro Transportation Services (MTS) LLC, when it held WMATC Certificate No. 2133 from April 5, 2013, until January 8, 2014, when the certificate was revoked in Order No. 14,463 for MTS's willful failure to comply with the Commission's insurance requirements.⁶

When a person controlling an applicant has a record of violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5)

⁴ See *In re Abdelrazig Hassan Shawkat*, No. AP-13-076, Order No. 13,865 (Apr. 12, 2013) (same).

⁵ *In re Reliable Med. Transp., LLC.*, No. AP-08-180, Order No. 11,820 (Jan. 26, 2009); *In re Henka Int'l, Inc., t/a Worldwide Tours & Travel*, No. AP-03-184, Order No. 8035 (May 27, 2004).

⁶ *In re Milagro Transp. Servs. (MTS) LLC*, No. MP-13-104, Order No. 14,463 (Jan. 8, 2014)

whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁷

Mr. Ahoure states that MTS had only one vehicle and that it was owned by Olivier Ahoure. There was a falling out between the two Ahoures and Olivier Ahoure left with his vehicle to form his own company. Commission records show that Mr. Olivier Ahoure is president of B Service Limited Liability Company, WMATC Carrier No. 2262, and that the vehicle in question has been under B Service's control since August 2013. Why MTS did not seek voluntary termination in August 2013 is not explained.

In any event, the record shows that there are no outstanding fees or reports due from MTS, Certificate No. 2133 has been surrendered, and the vehicle in question was exempt from having to display any WMATC markings, so there were none to remove.

The Commission has found other applicants fit under similar circumstances.⁸ Applicant, however, shall serve a one year period of probation as a means of ensuring prospective compliance.⁹

Based on the evidence in this record, and in light of the one-year period of probation imposed herein, 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.

In closing, it is noted that the application fee was paid by check drawn on the account of "Milagro Transportation Services LLC". Applicant is admonished to keep its WMATC assets, books, finances and operations completely separate from those of Milagro Transportation Services.¹⁰

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 2133 shall be

⁷ Order Nos. 11,820; 8035.

⁸ See Order No. 11,820 (no evidence of post-suspension operations and no other outstanding issues); *In re Business Logistics Group, L.L.C., t/a ATS, L.L.C.*, No. AP-06-002, Order No. 9652 (June 15, 2006) (verification of no post-suspension operations and payment of outstanding fees and forfeitures); Order No. 8035 (no evidence of post-suspension operations and satisfactory accounting for vehicles and vehicle markings).

⁹ See Order No. 11,820 (same); Order No. 9652 (same); Order No. 8035 (same).

¹⁰ See *In re Nassco Lemo LLC*, No. AP-13-252, Order No. 14,224 (Sept. 30, 2013) (requiring separation from account owner).

issued to Ives Transportation-Sales Auto Repair (TSAR) LLC, trading as Ives, 12401 Brickyard Boulevard, #26, Beltsville, MD 20705-1334.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate No. 2133 has been reissued 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 applicant shall be placed on probation for a period of one year commencing with the reissuance of Certificate No. 2133 in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant or its members during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

5. 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 AND HOLCOMB:



William S. Morrow, Jr.
Executive Director