

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,490

IN THE MATTER OF:

Served April 7, 2015

METRO TRANSCARE LLC, Suspension and)
Investigation of Revocation of)
Certificate No. 1922)

Case No. MP-2014-042

This matter is before the Commission on respondent's response to Order No. 15,050, served September 12, 2014.

I. BACKGROUND

Certificate No. 1922 was automatically suspended on March 21, 2014, pursuant to Regulation No. 58-12, when the \$1 million primary and \$500,000 excess WMATC Insurance Endorsements on file for respondent terminated without replacement. Order No. 14,651, served March 21, 2014, noted the automatic suspension of Certificate No. 1922, directed respondent to cease transporting passengers for hire under Certificate No. 1922, 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. 1922.

Respondent failed to timely respond, and Certificate No. 1922 was revoked on June 19, 2014, in Order No. 14,848. Respondent later paid the late fee, filed an acceptable \$1.5 million primary WMATC Endorsement, and timely filed an application for reconsideration of the revocation of Certificate No. 1922.

The effective date of the replacement endorsement is July 18, 2014, instead of March 21, 2014. Under Regulation No. 58-14:

If a carrier's operating authority is suspended under Regulation No. 58-12 and the effective date of a later-filed replacement Endorsement falls after the automatic suspension date, the carrier must verify timely cessation of operations in accordance with Commission Rule No. 28 and corroborate the verification with client statements and/or copies of pertinent business records, as directed by Commission order.

Order No. 15,050, served September 12, 2014, denied respondent's request for reconsideration, but consistent with WMATC precedent, reopened the proceeding under Rule No. 26-04 and reinstated Certificate No. 1922. In accordance with Regulation No. 58-14, Order No. 15,050 also directed respondent to verify cessation of operations as of March 21, 2014, and required respondent to corroborate its verification statement with copies of pertinent business records from January 1, 2014, to September 12, 2014.

II. RESPONSE TO ORDER NO. 15,050

On October 10, 2014, respondent submitted a statement from its president, Mahamane Dabo. The statement reads in pertinent part as follows:

In response to your letter dated September 12, 2014, Metro Transcare L.L.C, after losing the contract with Logisticare in June 28, 2013 did not have any operations from that date and still remain with no operation as of today. Metro Transcare L.L.C does not have any customer, no calendars and itineraries.

Respondent's document production consists of two Internet printouts, a two-page listing of "Transaction Details" for a BB&T bank account and a two-page "Transaction Activity" listing for a SunTrust Bank account.

III. ORDER TO SHOW CAUSE

We find respondent's document production deficient. First, Order No. 15,050 directed respondent to produce all records in respondent's possession, custody, or control pertaining to the Metropolitan District from January 1, 2014, to September 12, 2014, not merely bank statements, calendars, and itineraries. Respondent offers no explanation for not producing all of its records. For example, respondent has produced none of the paperwork that would have been generated when respondent took its insurance business from Knightbrook Insurance Company to National Liability & Fire Insurance Company in July 2014.

Second, respondent's name does not appear on either the BB&T printout or the SunTrust printout. And neither predates March 2014.

This is not the first time that respondent has allowed its vehicle liability insurance to lapse. Despite the requirement in Regulation No. 58-03 that respondent maintain a WMATC Insurance Endorsement on file with the Commission at all times, Commission records show that respondent was without insurance coverage on September 18, 2013. The Commission refrained from revoking Certificate No. 1922 for that infraction because of a lack of evidence that respondent continued operating after being suspended.¹ But the document production in the 2013 proceeding was far more robust than it has been in this proceeding. Given the four-month lapse in coverage at issue in this proceeding, respondent's document production in this proceeding should be more robust, not less.

Considering that respondent has apparently failed to produce all pertinent business records, as required by Regulation No. 58-14 for the purpose of corroborating respondent's averments regarding timely cessation of operations, respondent shall have 30 days to show

¹ *In re Metro Transcare LLC*, No. MP-13-117, Order No. 14,465 (Jan. 8, 2014).

cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1922, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.²

Respondent's showing should address the deficiencies noted above, as well as include the following:

1. Respondent shall produce a copy or copies of the deposit item(s) corresponding to the \$1,275 BB&T deposit on June 2, 2014.
2. Respondent shall produce copies of the deposit items corresponding to the \$845 and \$384.10 SunTrust deposits on July 21, 2014.
3. Respondent shall produce full monthly statements for the BB&T and SunTrust accounts for January 2014 through February 2015.
4. Respondent produced four months and 24 pages of TD Bank checking account statements in the 2013 proceeding but none in this proceeding. Respondent shall produce full monthly statements from that account for October 2013 through February 2015.

THEREFORE, IT IS ORDERED:

1. That respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1922, for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

2. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.
Executive Director

² See *In re Olalekan Salami, t/a Startime Ventures*, No. MP-08-147, Order No. 11,690 (Nov. 19, 2008) (same).