

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,729

IN THE MATTER OF:

Served July 13, 2015

BETTER BUSINESS CONNECTION, INC.,)
T/A BBC EXPRESS, WMATC No. 227; BBC)
VAN SERVICE, INC., T/A BBC CHARTER)
AND LIMO; ABE'S LIMO, INC., T/A)
ABE'S LIMO; and BEST BUS COMPANY,)
LLC, T/A BBC: Investigation of)
Violation of Article XI, Section)
Nos. 6(a) & 11(b), of the Compact,)
WMATC Reg. Nos. 61, 62, & 63, and)
WMATC Order Nos. 12,238 & 13,258)

Case No. MP-2013-028

This matter is before the Commission on the request of respondents for an extension of time to pay a partially suspended forfeiture assessed in Order No. 15,486, served April 2, 2015. The order assessed a total forfeiture of \$595,000, of which all but \$90,600 was suspended on the condition that respondents pay the net amount within 30 days, or not later than May 4, 2015, as calculated under Rule No. 7-01.

Respondents have paid \$9,000 of the \$90,600 and have filed a motion requesting that the Commission permit payment of the remaining \$81,600 in 18 equal monthly installments on the second of each month. At respondents' request, the May 4 deadline was extended in Order No. 15,570 until such time as the Commission rules on said motion.

In the meantime, the record shows that after Order No. 15,486 was issued, Better Business Connection, Inc., violated that order, among others, by advertising passenger carrier service requiring WMATC authority on its www.abeslimo.com website under the trade name "Abe's Limousine & Tours". That website originally was the property of Abe's Limo, Inc., but became the property of Better Business Connection last year when the former merged into the latter.

I. ADDITIONAL VIOLATIONS

Order No. 15,486 made clear that the Commission would assess against Better Business Connection a civil forfeiture in the amount of \$500 for each day after April 2, 2015, that the www.abeslimo.com website advertised WMATC service under the "Abe's Limousine & Tours" trade name, until such time as that trade name was approved by WMATC. The record shows that the "abeslimo" website advertised a full range of service under the non-WMATC approved "Abe's Limousine & Tours" trade name in the Metropolitan District in vehicles seating more than nine persons through April 30, 2015. Among these services were:

"Luxury Bus Services in Washington, D.C."; "Airport Transportation" in vans and buses; "Shuttle" services in vehicles seating "12-25 passengers". Such services require a WMATC certificate of authority.

As the Commission explained in Order No. 15,486, the basis for the advertising ban at issue is, in pertinent part, as follows:

Order No. 14,594 directed respondents to "immediately cease advertising through the websites www.bbcexpress.com and www.abeslimo.com passenger carrier service requiring WMATC authority." Respondents have yet to comply. In their response to Order No. 14,594, respondents appear to defend their failure to comply on the grounds that these websites now comply with WMATC Regulation No. 63.¹ Putting aside for the moment the implicit invalid proposition that carriers are free to disobey unequivocal Commission directives so long as they, the carriers, adopt corrective measures that they deem sufficient, we find that the Abe's Limo website still does not comply with Regulation No. 63.

First, the "abeslimo" website identifies the carrier as "Abe's Limousine & Tours". According to documents filed by respondents in response to Order No. 14,594, Abe's Limo was merged into Better Business Connection on April 24, 2014. And while it would thus appear that Better Business Connection now owns the "abeslimo" website by virtue of the merger, Better Business Connection is not authorized to use the "Abe's Limousine & Tours" trade name in WMATC operations. Despite two trade name applications having been filed in 2014, said trade name has yet to be added to Certificate No. 227 because of Better Business Connection's failure to prosecute those applications.

In both applications, the addition of the "Abe's Limousine & Tours" trade name to Certificate No. 227 was made contingent on Better Business Connection filing additional documents and passing a vehicle inspection conducted by Commission staff. Both orders cautioned Better Business Connection not to operate under the "Abe's Limousine & Tours" trade name unless and until the trade name is added to Certificate No. 227. In the first application, Better Business Connection failed to satisfy said conditions within the 180 days allowed under Regulation No. 66, thereby voiding the Commission's approval. In the second application, which is still pending, Better Business Connection has yet to satisfy

¹ Response of April 28, 2014 at 4-5, 6.

all conditions, despite the passage of more than three months.

Order No. 15,486 at 25 (citations omitted).

As with the first trade name application, the second trade name application now stands denied for Better Business Connection's failure to satisfy the conditions of approval within the time permitted.² Accordingly, we find that Better Business Connection violated WMATC Order Nos. 14,594,³ 14,739,⁴ 15,226,⁵ and 15,486⁶ by using the "Abe's Limousine & Tours" trade name to advertise passenger carrier service requiring WMATC authority, from April 3, 2015, through April 30, 2015, via the "abeslimo.com" website.

II. ASSESSMENT OF CIVIL FORFEITURE

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.⁷ Each day of the violation constitutes a separate violation.⁸

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁹ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by intentional or careless disregard or plain indifference.¹⁰

² See *In re Better Business Connection, Inc.*, No. AP-14-337, Order No. 15,226 (Dec. 8, 2014) (citing 180-day deadline).

³ See *In re Better Business Connection, Inc.*, No. MP-13-028, Order No. 14,594 (Feb. 26, 2014) (prohibiting respondents from advertising passenger carrier service requiring WMATC authority via "abeslimo.com" website).

⁴ See *In re Better Business Connection, Inc.*, No. AP-14-131, Order No. 14,739 (May 1, 2014) (prohibiting Better Business Connection use of Abe's Limousine & Tours trade name unless and until WMATC Certificate No. 227 reissued with said trade name).

⁵ See *In re Better Business Connection, Inc.*, No. AP-14-337, Order No. 15,226 (Dec. 8, 2014) (same).

⁶ See *In re Better Business Connection, Inc.*, No. MP-13-028, Order No. 15,486 (Apr. 2, 2015) (prohibiting Better Business Connection from advertising passenger carrier service requiring WMATC authority via "abeslimo.com" website).

⁷ Compact, tit. II, art. XIII, § 6(f).

⁸ Compact, tit. II, art. XIII, § 6(f)(ii).

⁹ *In re Royal Sys. Servs. Corp., t/a VGA Group*, No. MP-09-109, Order No. 12,439 at 10 (June 11, 2010).

¹⁰ *Id.* at 10.

In accordance with Order No. 15,486, we hereby assess a civil forfeiture of \$14,000 against Better Business Connection for knowingly and willfully violating WMATC Order Nos. 14,594, 14,739, 15,226, and 15,486 for 28 days.

III. APPROVAL OF PAYMENT PLAN

As noted above, respondents request that the Commission permit payment of the remaining \$81,600 of the \$90,600 net forfeiture assessed in Order No. 15,486 over a period of 18 months.

The Commission has approved payment plans in the past after acknowledging the carrier's "good faith" down payment.¹¹

Respondents' request to pay the remaining \$81,600 of the \$90,600 net forfeiture assessed in Order No. 15,486 in accordance with a monthly payment plan approved by the Commission is hereby granted subject to the conditions that: (1) Better Business Connection shall pay the \$14,000 forfeiture assessed in this order within 30 days; (2) all respondents shall be jointly and severally liable for payment of the remaining \$81,600; and (3) respondents shall pay the remaining \$81,600 in 12 equal monthly installments of \$6,800 each, beginning September 2, 2015.

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture in the amount of \$14,000 against Better Business Connection, Inc., for knowingly and willfully violating WMATC Order Nos. 14,594, 14,739, 15,226, and 15,486 for 28 days.

2. That respondents' request to pay the remaining \$81,600 of the \$90,600 net forfeiture assessed in Order No. 15,486 in accordance with a monthly payment plan approved by the Commission is hereby granted subject to the following conditions:

- a. Better Business Connection, Inc., shall pay to the Commission within 30 days of the date of this order, by check or money order, the sum of fourteen thousand dollars (\$14,000);
- b. all respondents shall be jointly and severally liable for payment of the remaining \$81,600 of the \$90,600 net forfeiture assessed in Order No. 15,486;

¹¹ *In re L & J Limo Servs. LLC*, No. MP-10-017, Order No. 12,724 (Feb. 15, 2011); *In re Sams Health Care Servs. Inc.*, No. MP-08-005, Order No. 12,096 (July 17, 2009); *In re 1st Choice Investment Group, LLC, t/a It's About U*, No. MP-08-013, Order No. 11,746 (Dec. 11, 2008); see also *In re Zeremyakob Assefa Haylemariam, t/a Shalom Transp. Serv.*, No. AP-14-139, Order No. 15,612 (May 27, 2015) (acknowledging down payment).

- c. respondents shall pay to the Commission the remaining \$81,600 of the \$90,600 net forfeiture assessed in Order No. 15,486, by check or money order, in 12 equal monthly installments of six thousand eight hundred dollars (\$6,800) each, on the second of each month, beginning September 2, 2015; and
- d. the full forfeitures assessed in Order No. 15,486 shall become immediately due and payable upon respondents' failure to pay in timely fashion the net forfeitures assessed in that order, as herein modified.

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



William S. Morrow, Jr.
Executive Director