

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,771

IN THE MATTER OF:

Served July 28, 2015

EXACT ENTERPRISES INC., Suspension)
and Investigation of Revocation of)
Certificate No. 1249)

Case No. MP-2014-146

This matter is before the Commission on respondent's response to Order No. 15,115, served October 10, 2014.

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

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 1249 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. 1249 was rendered invalid on September 21, 2014, when the \$1 million primary and \$500,000 excess WMATC Insurance Endorsements on file for respondent terminated without replacement. Order No. 15,074 noted the automatic suspension of Certificate No. 1249 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1249, and gave respondent thirty 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. 1249.

Respondent paid the late fee on October 9, 2014, and submitted a \$1.5 million primary WMATC Insurance Endorsement on October 10, 2014, and the suspension was lifted on October 10, 2014, in Order No. 15,115. However, because the effective date of the new endorsement is October 8, 2014, instead of September 21, 2014, the order gave respondent 30 days in accordance with Regulation No. 58-14 to verify cessation of operations as of September 21, 2014, and to corroborate the verification with copies of respondent's pertinent business records and statements from three of respondent's clients,

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

Medical Transportation Management, Inc., (MTM), the Montgomery County Department of Transportation, (MCDOT), and Southeastrans, Inc.

II. RESPONSE TO ORDER NO. 15,115

Respondent's executive director, Rufin Toko Sime, filed a statement on November 12, 2014, in which he states that respondent "did not transport people during the time of our suspension." Respondent also submitted a statement from MTM asserting that respondent "did not transport any beneficiaries for [MTM] between September 12, 2014, and October 13, 2014." Respondent has submitted no such statements from Southeastrans and MCDOT. Mr. Sime does say, however, that respondent requested such statements from Southeastrans and MCDOT but did not receive any.

As for business records, respondent produced bank statements covering the period from September 22, 2014, through November 10, 2014. The bank statements show three electronic deposits from Southeastrans and five from MTM. At the request of Commission staff, respondent produced "invoice statements" relating to the eight deposits, including Southeastrans invoice statements for the transportation of 19 passengers by five of respondent's drivers on September 22, 2014, the second day of the suspension.

It bears noting that while this proceeding was pending, respondent's WMATC Insurance Endorsement terminated without replacement once again, and Certificate No. 1249 was revoked in Order No. 15,443 on March 9, 2015, in Case No. MP-15-029, when respondent failed to replace the endorsement and pay the late insurance fee within 30 days.³ Certificate No. 1249 remains revoked as of this date.

III. ORDER TO SHOW CAUSE

Considering that respondent's Southeastrans invoice statements contain entries for passenger trips between points in the Metropolitan District on September 22, 2014 when Certificate No. 1249 was suspended and respondent was uninsured, respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent for knowingly and willfully conducting operations under an invalid certificate of authority.⁴

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 for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and Order No. 15,074.

³ *In re Exact Enters., Inc.*, No. MP-15-029, Order No. 15,443 (Mar. 9), recon. denied, Order No. 15,589 (May 15, 2015),

⁴ *See In re Sami Investment Inc.*, No. MP-14-015, Order No. 15,531 (Apr. 17, 2015) (show cause order issued in part where documents showed carrier operated while suspended and uninsured).

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, HOLCOMB, AND DORMSJO:

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.
Executive Director