

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,941

IN THE MATTER OF:

Served November 5, 2015

FIF TRANSPORTATION, LLC, Suspension )  
and Investigation of Revocation of )  
Certificate No. 1850 )

Case No. MP-2015-019

This matter is before the Commission on respondent's response to Order No. 15,691, served June 18, 2015.

**I. BACKGROUND**

Certificate No. 1850 was automatically suspended on January 15, 2015, pursuant to Regulation No. 58-12, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 15,326, served January 15, 2015, noted the automatic suspension of Certificate No. 1850 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1850, 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. 1850.

Respondent paid the late fee and submitted a \$1.5 million WMATC Insurance Endorsement, and the suspension was lifted in Order No. 15,376, on February 4, 2015, but because the effective date of the new endorsement is February 1, 2015, instead of January 15, 2015, the order gave respondent 30 days to verify cessation of operations as of February 1, 2015, as corroborated by copies of respondent's pertinent business records, in accordance with Regulation No. 58-14.

Instead of complying, respondent submitted the statement of Amanda Auth, a secretary at CV Auto Repair. According to her statement, "the vehicles under WMATC License #1850 were in our storage from the 15th of January, 2015 through the 2nd of February, 2015 due to a suspended WMATC license." Her statement, however, did not specifically identify the vehicles in storage and did not disclose how she knew as a matter of personal knowledge that respondent did not operate other vehicles during the time period covered by her statement. In any event, her statement did not expressly state that respondent did not conduct WMATC operations from January 15, 2015, through February 3, 2015, and her statement was not corroborated by copies of respondent's business records from November 1, 2014, to February 4, 2015, as directed by Order No. 15,376.

Considering that respondent had not denied operating its vehicle(s) on and after the suspension date, and considering that respondent had failed to produce the required documents, the

Commission issued Order No. 15,691 on June 18, 2015, and in that order gave respondent 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1850, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

## **II. RESPONSE TO ORDER NO. 15,691**

Respondent's owner, Luis Ferman, has filed the following statement in response to Order No. 15,691.

I am responding to the case number listed at the top of this letter. I, Luis Ferman, owner of FIF Transportation LLC returned the tags of the vehicles covered under the lapse insurance to the MVA during the lapse. I am supplying the MVA Tag Registrations for all vehicles of which I returned the Tags to their office personally. Tag No's 51749B,, 57429B, 57425B, 56899B, and 57487B. I will also supply bank statements with this letter for business transactions from Nov. 14-Feb. 4, 2015. The vehicles were not in business as they were not in use during the insurance lap. As of Feb. 2015 I have only one vehicle 57413B now in use for FIF Transportation and covered under the insurance as required by WMATC. Please do not hesitate to contact me if you have any questions or concerns.

Mr. Ferman's statement is supported by copies of bank statements for the period beginning November 3, 2014, and ending March 2, 2015, and by copies of registration-cancellation verifications for five vehicles as issued by the Maryland Motor Vehicle Administration (MDMVA).

## **III. ANALYSIS OF RESPONSE TO ORDER NO. 15,691**

We find respondent's response is deficient in several respects. First, Mr. Ferman's statement does not unequivocally state that respondent did not operate from January 15, 2015, through February 4, 2015. He merely states that certain vehicles were withheld from service, and not throughout the suspension period that ended February 4 but only during the insurance lapse, which ended February 1.

Second, although Certificate No. 1850 was suspended January 15, none of the license plates were returned to MVA before January 26, 2015. Three were returned on that date. The other two were returned well after the suspension had run: one on February 10 and one on February 27. And according to MDMVA, three of these five vehicles are still registered to respondent, albeit with different for-hire plate numbers, along with another 16 vehicles with for-hire plates that have not been reported to WMATC but one of which has been observed to

simultaneously display "WMATC # 1850" and an "Independent" taxicab dome light.<sup>1</sup>

Third, there is no account holder name on the bank statements produced by respondent. They could belong to anyone. And, in any event, producing bank statements alone does not satisfy the requirement in Order No. 15,376 that respondent produce ALL business records from November 1, 2014, to February 4, 2015.

#### IV. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY

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>2</sup>

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.<sup>3</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>4</sup> 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.<sup>5</sup>

Because respondent has not unequivocally denied operating during the suspension of Certificate No. 1850, and because respondent has failed to fully produce corroborating records as required by Regulation No. 58-14(a) and directed by Order No. 15,376 and has offered no explanation for this noncompliance, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250<sup>6</sup> and revoke Certificate No. 1850.<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

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<sup>1</sup> A WMATC carrier may neither use a taxicab in WMATC operations nor use a WMATC vehicle in taxicab operations. *In re Tigist Habtewold, t/a ABMT Transp.*, No. AP-11-015, Order No. 12,721 (Feb. 9, 2011).

<sup>2</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>3</sup> Compact, tit. II, art. XI, § 10(c).

<sup>4</sup> *In re 3MH Servs. Ltd.*, No. MP-15-020, Order No. 15,751 (July 21, 2015); *In re Car Plus Transp. LLC*, No. MP-14-099, Order No. 15,592 (May 15, 2015).

<sup>5</sup> Order No. 15,751; Order No. 15,592.

<sup>6</sup> See Order No. 15,751 (assessing \$250 for failing to produce documents); Order No. 15,592 (same).

<sup>7</sup> See Order No. 15,751 (revoking authority for failing to produce documents corroborating verification of suspension compliance); Order No. 15,592 (same).

in the amount of \$250 for knowingly and willfully violating Regulation No. 58-14(a) and Order No. 15,376.

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 pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 1850 is hereby revoked for respondent's willful failure to comply with Regulation No. 58-14(a) and Order No. 15,376.

4. That within 30 days from the date of this order respondent shall:

- a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- c. surrender Certificate No. 1850 to the Commission.

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



William S. Morrow, Jr.  
Executive Director