

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,071

IN THE MATTER OF:

Served December 22, 2015

WASHINGTON DCLIMOUSINES SERVICES LLC,)
WMATC No. 2679, Investigation of)
Violation of Order No. 15,301 and)
Regulation No. 64-04

Case No. MP-2015-157

This matter is before the Commission on the failure of respondent to respond to Order No. 15,839, served September 9, 2015.

I. BACKGROUND

The Washington Metropolitan Area Transit Regulation Compact¹ authorizes the Washington Metropolitan Area Transit Commission (WMATC) to issue a certificate of passenger carrier 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.²

The Commission may attach to the issuance of a certificate and to the exercise of the rights granted under it any term, condition, or limitation that is consistent with the public interest.³

The Commission approved the application of Washigtondclimousines Services LLC, (respondent), for a certificate of authority on January 7, 2015, in Order No. 15,301, subject to several conditions, including the condition that respondent produce within 180 days a copy of the for-hire vehicle registration card for each vehicle to be operated under WMATC authority, as required by WMATC Regulation No. 64-04.⁴ As of July 7, 2015, respondent had satisfied all conditions except the for-hire plate condition. In the absence of any passenger carrier authority, respondent was unable to obtain for-hire plates for its initial three WMATC vehicles, a 2009 Mercedes with VIN Ending 244623 and two others - a 2014 Sprinter with VIN ending 937209 and a 2009 Suburban with VIN ending 172029.

¹ Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

² Compact, tit. II, art. XI, § 7(a).

³ Compact, tit. II, art. XI, § 7(d).

⁴ *In re Washigtondclimousines Services LLC*, No. AP-14-336, Order No. 15,301 (Jan. 7, 2015).

To resolve the impasse, the Commission issued WMATC Certificate No. 2679 to respondent on July 7, 2015, subject to a vehicle-out-of-service notice and subject to the proviso that respondent obtain for-hire plates for all three vehicles and submit copies of the new registrations to the Commission within 30 days or face revocation of Certificate No. 2679.

As of September 9, 2015, respondent had yet to produce a for-hire registration card for the 2009 Mercedes. The Commission accordingly issued Order No. 15,839, giving respondent until October 8, 2015, to show cause why the Commission should not revoke Certificate No. 2679. Respondent has yet to respond.

II. ORDER TO REVOKE

Under the Compact, 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.⁵

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.⁶

Given respondent's failure to respond to Order No. 15,839, we find that respondent has failed to show cause why the Commission should not revoke Certificate No. 2679. Respondent may avoid revocation by certifying, in accordance with Rule No. 28, compliance with the requirement in the Commission's July 7 letter that respondent withhold the 2009 Mercedes from WMATC service.

In addition, Commission records show that respondent filed a lease on July 28, 2015, for a 2009 Lincoln with private plates and that respondent was advised by email dated July 31, 2015, not to operate that vehicle under WMATC authority because the Lincoln did not display for-hire plates. Respondent was advised that upon submitting proof of obtaining for-hire plates for the Lincoln, WMATC would issue a notice authorizing use of said vehicle in WMATC operations. Respondent has yet to produce such proof. Under the circumstances, respondent shall be required to certify, in accordance with Rule No. 28, that the Lincoln has not been placed in WMATC service.

Failure to comply with either of the foregoing certification requirements shall result in immediate revocation of Certificate No. 2679.

In the meantime, the two vehicles for which respondent has obtained for-hire plates - the 2014 Sprinter with VIN ending 937209

⁵ Compact, tit. II, art. XI, § 10(c).

⁶ *In re Asim Sherzai*, No. MP-14-144, Order No. 15,071 (Sept. 18, 2014).

and the 2009 Suburban with VIN ending 172029 - may be placed in WMATC service.

THEREFORE, IT IS ORDERED:

1. That within 30 days from the date of this order respondent shall submit a statement under oath certifying, in accordance with Rule No. 28, compliance with the requirement in the Commission's July 7, 2015, letter that respondent withhold from WMATC service the 2009 Mercedes with VIN ending 244623.

2. That within 30 days from the date of this order respondent shall submit a statement under oath certifying, in accordance with Rule No. 28, compliance with the requirement in the Commission's July 31, 2015, email that respondent withhold from WMATC service the 2009 Lincoln with VIN ending 610018.

3. That the Executive Director shall issue an order revoking Certificate No. 2679 upon respondent's failure to comply with either of the two foregoing certification requirements.

4. That respondent shall not place said 2009 Mercedes and said 2009 Lincoln in WMATC service until such time as the Executive Director issues written authorization.

5. That respondent may place in WMATC service the 2014 Sprinter with VIN ending 937209 and the 2009 Suburban with VIN ending 172029.

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



William S. Morrow, Jr.
Executive Director