

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,289

IN THE MATTER OF:

Served April 4, 2016

ROYAL LIMOUSINE LLC, Suspension and)
Investigation of Revocation of)
Certificate No. 2403)

Case No. MP-2015-119

This matter is before the Commission on respondent's failure to respond to Order No. 15,917, served October 20, 2015.

I. BACKGROUND

Certificate No. 2403 was automatically suspended on June 10, 2015, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent expired without replacement. Order No. 15,669, served June 10, 2015, noted the automatic suspension of Certificate No. 2403, directed respondent to cease transporting passengers for hire under Certificate No. 2403, 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. 2403.

Respondent failed to respond, and Certificate No. 2403 was revoked on July 22, 2015, in Order No. 15,754. The certificate was later reinstated on August 19, 2015, in Order No. 15,806, following respondent's request for reconsideration on August 18, 2015, which was supported by the necessary WMATC Insurance Endorsements and payment of the \$100 late fee.

However, because the effective date of respondent's replacement WMATC Endorsements is July 1, 2015, instead of June 10, 2015, the reinstatement order gave respondent 30 days to submit a statement verifying cessation of operations as of June 10, 2015, and produce copies of respondent's business records for the period April 1, 2015, to August 19, 2015, in accordance with Regulation No. 58-14(a).

On September 17, 2015, respondent submitted an online checking account printout for the period June 11, 2015, to September 1, 2015, and a copy of a vehicle lease dated June 1, 2015. The checking account printout identifies "Royal Limousine" as the account holder. The lease covers a 2007 Lincoln sedan and is between Amibera Transportation LLC, as lessor, and respondent's president, Ms. Sepideh Firouzi, as lessee. No other records were produced, and no statement was produced.

We found in Order No. 15,917 that respondent's electronic deposit activity was consistent with credit card transactions for individual trips performed during the suspension period and that the

frequent number of service-station purchases during the same time frame was consistent with the ongoing fueling of respondent's vehicle(s) necessary to perform those trips. Ultimately, we found that respondent's bank records constituted prima facie evidence of carrier operations during the suspension of Certificate No. 2403 and that respondent's failure to furnish a statement confirming or denying such operations as required by Order No. 15,806 leant weight to that finding.

We further found that respondent's production of the June 1 Amibera Transportation lease implied respondent's use of the 2007 Lincoln in WMATC operations prior to September 17, 2015, even though no lease was on file with WMATC naming respondent as sublessee as required by Regulation No. 62.

Order No. 15,917 accordingly 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. 2403, for knowingly and willfully conducting operations under a suspended certificate of authority and violating Regulation Nos. 58 and 62.

Respondent has yet to respond.

II. ASSESSMENT OF 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.¹ Each day of the violation constitutes a separate violation.²

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.³ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard of whether or not one has the right so to act.⁴ Employee negligence is no defense.⁵ "To hold carriers not liable for penalties where the violations . . . are due to mere indifference, inadvertence, or negligence of employees would defeat the purpose of" the statute.⁶

The record shows that respondent switched insurance companies in 2015 after the WMATC Endorsement on file for respondent expired on

¹ Compact, tit. II, art. XIII, § 6(f).

² Compact, tit. II, art. XIII, § 6(f)(ii).

³ *In re Couples, LLC, t/a Couples Limos.*, No. MP-09-134, Order No. 12,330 at 3 (Mar. 8, 2010).

⁴ *Id.* at 3.

⁵ *Id.* at 3.

⁶ *United States v. Illinois Cent. R.R.*, 303 U.S. 239, 243, 58 S. Ct. 533, 535 (1938).

June 10. The effective date of the new policy indicates that respondent did not replace the old policy until July 1. Under Regulation No. 58-12: "Failure to replace a WMATC Insurance Endorsement prior to termination shall result in immediate, automatic suspension of a carrier's WMATC operating authority. The carrier must suspend operations immediately and may not recommence operations unless and until otherwise ordered by the Commission." Respondent, therefore, should have ceased operating on June 10, 2015. The evidence of record, however, is to the contrary.

It bears repeating that respondent produced its online banking printout and vehicle lease in response to Order No. 15,806, which directed respondent to produce records relating to respondent's transportation of passengers for hire between points in the Metropolitan District from April 1, 2015, to August 19, 2015.

The bank printout reveals a pattern of 35 electronic credit card deposits to the account of "Royal Limousine" on 29 separate days during the 10 weeks from June 10, 2015, through August 18, 2015, when Certificate No. 2403 was suspended/revoked. The printout further reveals 42 debit transactions at several service stations within the Metropolitan District, (Northern Virginia and National Harbor, Maryland), during those same 10 weeks, with an average purchase amount of \$27.13. Even without respondent's implicit representation that the printout is related to respondent's WMATC operations, it is difficult to reach any conclusion other than that the deposits are evidence of ongoing passenger payments and the debit purchases are evidence of a refueling volume and frequency commensurate with extensive ongoing passenger carrier operations in the Metropolitan District. We therefore find that respondent transported passengers for hire between points in the Metropolitan District on 29 separate days while Certificate No. 2403 was suspended/revoked from June 10, 2015, through August 18, 2015.

Respondent should have been aware on June 10, 2015, that its insurance policy had expired without replacement and that therefore Certificate No. 2403 was suspended as of that date. Indeed, the record shows that Order No. 15,669, the order noting the automatic suspension of Certificate No. 2403 and directing respondent to cease WMATC operations, was delivered by Certified Mail to respondent on June 16, 2015. We therefore find that respondent's unlawful passenger carrier operations during the 10 weeks in question were knowing and willful within the meaning of the Compact and subject to a civil forfeiture.

"In setting the daily forfeiture amount, we . . . take[] into consideration Commission precedent that distinguishes carriers operating without authority and without adequate insurance, on the one hand, from carriers operating without authority but with adequate insurance, on the other - assessing a larger amount against those

without adequate insurance.”⁷ For operating while suspended but not while uninsured, the Commission normally assesses a civil forfeiture of \$250 for each day of unauthorized operations.⁸ The Commission assesses \$500 per day when a carrier operates unlawfully without an effective WMATC Endorsement on file.⁹

Of the 29 days respondent operated while WMATC Certificate No. 2403 was suspended/revoked, 20 were covered by a WMATC Endorsement¹⁰ and nine were not.¹¹ Accordingly, we shall assess a civil forfeiture of \$250 per day for 20 days and \$500 per day for nine days, for a combined forfeiture of \$9,500.

We also shall assess a civil forfeiture against respondent for operating a leased vehicle without first filing a lease with the Commission. As noted above, respondent produced a vehicle lease in response to Order No. 15,806 naming Amibera Transportation LLC as lessor and respondent’s president, Sepideh Firouzi, as lessee. Respondent’s production of the lease on September 17, 2015, as a business record relating to respondent’s WMATC operations from April to August 2015 suggests respondent began using this vehicle in its WMATC operations on June 1, 2015, the date the lease was signed. Under Regulation No. 62, respondent should have filed a lease with the Commission naming respondent as lessee before operating the vehicle under WMATC Certificate No. 2403. We will assess a forfeiture of \$250 against respondent for knowingly and willfully violating Regulation No. 62.¹²

III. REVOCATION OF AUTHORITY

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.¹³

When the signatories and Congress approved the Compact, they designated noncompliance with Commission insurance requirements as the single offense that would automatically invalidate a certificate of authority.¹⁴ They could not have sent a clearer message that

⁷ *In re Better Business Connection, Inc.*, No. MP-13-028, Order No. 15,486 at 23 (Apr. 2, 2015).

⁸ *In re L & J Limo Servs. LLC*, No. MP-10-017, Order No. 12,658 at 4 (Dec. 17, 2010).

⁹ Order No. 15,486 at 23.

¹⁰ July 2, 9, 10, 13, 16, 17, 20, 24, 27, 30, & 31; August 3, 6, 7, 10, 12, 13, 14, 17, & 18.

¹¹ June 11, 12, 15, 18, 19, 22, 25, 26, & 29.

¹² *See, e.g., Home Life Help Servs., LLC*, No. MP-13-084, Order No. 14,721 (Apr. 23, 2014) (assessing \$250 civil forfeiture for operating vehicle not titled in respondent’s name and not covered by a Commission approved lease).

¹³ Compact, tit. II, art. XI, § 10(c).

¹⁴ Compact, tit. II, art. XI, § 7(g).

maintaining proper insurance coverage is of paramount importance under the Compact.¹⁵ We therefore revoke Certificate No. 2403 for respondent's willful operations on nine days in June 2015 while respondent's operations were insufficiently insured.¹⁶

IV. ANNUAL REPORT

While this proceeding was pending, respondent failed to pay its \$175 annual fee for 2016, and failed to file its annual report for 2016, on or before January 31, 2016, as required by Regulation Nos. 67-02 and 60-01, respectively. This triggered \$300 in late fees under Regulation No. 67-03(a),(b). Respondent paid all outstanding fees on March 28 but has yet to file an acceptable 2016 annual report. The annual report shall remain due.

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 in the amount of \$9,500 for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58-12, and Order Nos. 15,669 and 15,754.

2. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Regulation No. 62.

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 2403 is hereby revoked for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, Regulation Nos. 58-12 and 62, and Order Nos. 15,669 and 15,754.

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

- a. pay to the Commission by check or money order the sum of nine thousand seven hundred fifty dollars (\$9,750);
- b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- c. file a notarized affidavit and supporting photograph(s) with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 2403 to the Commission.

¹⁵ *In re Sami Investment Inc.*, No. MP-14-015, Order No. 15,692 at 3 (June 18, 2015).

¹⁶ See *id.* (revoking authority of carrier that operated while suspended and underinsured).

5. That respondent's 2016 annual report shall remain due in accordance with Regulation No. 60.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS 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