

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,538

IN THE MATTER OF:

Investigation of Corporate Status, Directed to:	) )	Served August 29, 2016
FUN TRAVEL SERVICE, INC., WMATC No. 230	) )	Case No. MP-2016-139
QUIANA TOURS, INC., WMATC No. 290	)	Case No. MP-2016-140
TABI CLUB INTERNATIONAL, L.L.C., Trading as FREE AMERICA WASHINGTON D.C., WMATC No. 340	) ) )	Case No. MP-2016-141
BEST TRANSPORTATION SERVICES, INC., Trading as BTS AIRPORT EXPRESS, WMATC No. 392	) ) )	Case No. MP-2016-142
A-FAIR TRANSPORTATION INC., WMATC No. 539	) )	Case No. MP-2016-143
DEPENDABLE TRANSPORTATION, INC, WMATC No. 611	) )	Case No. MP-2016-144
DIP & SONS INCORPORATED, Trading as DIP & SONS TRANSPORTATION SERVICE, WMATC No. 866	) ) )	Case No. MP-2016-145
MILES AWAY CHARTER, LLC, WMATC No. 1299	) )	Case No. MP-2016-146
PLATINUM LIMOUSINE SERVICE, INC., WMATC No. 1538	) )	Case No. MP-2016-147
ELITE LIMO SERVICE LLC, WMATC No. 1734	) )	Case No. MP-2016-148
BRAVO TRANSPORTATION LLC, WMATC No. 1760	) )	Case No. MP-2016-149
SIGMA CORPORATION, WMATC No. 2042	)	Case No. MP-2016-150

TSTG, LLC, Trading as TNT	)	Case No. MP-2016-151
TRANSPORTATION, WMATC No. 2147)	
AIT SADDEN LLC, WMATC No. 2475	)	Case No. MP-2016-152
DUNAMIS CHARIOTS OF HOPE, LLC,	)	Case No. MP-2016-153
WMATC No. 2703)	

The Washington Metropolitan Area Transit Commission (Commission or WMATC) hereby initiates an investigation of the corporate status of each WMATC carrier named above.

I. JURISDICTION

The Washington Metropolitan Area Transit Regulation Compact,¹ (Compact), applies to: "the transportation for hire by any carrier of persons between any points in the Metropolitan District."² A person may not engage in transportation subject to the Compact unless there is in force a Certificate of Authority issued by WMATC authorizing the person to engage in that transportation.³ "A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority."⁴ "Each authorized carrier shall: (a) provide safe and adequate transportation service, equipment, and facilities; and (b) observe and enforce Commission regulations established under [the Compact]."⁵

The Commission may investigate on its own motion a fact, condition, practice, or matter to determine whether a person has violated or will violate a provision of the Compact or a rule, regulation, or order.⁶ 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.⁷ The Commission may direct that a carrier cease an operation conducted

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, § 1. The Metropolitan District includes: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports. Compact, tit. I, art. II.

³ Compact, tit. II, art. XI, § 6(a).

⁴ Compact, tit. II, art. XI, § 11(b).

⁵ Compact, tit. II, art. XI, § 5.

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

⁷ Compact, tit. II, art. XI, § 10(c).

under a certificate if the Commission finds the operation to be inconsistent with the public interest.⁸ 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.⁹

II. BACKGROUND

Each of the above-captioned WMATC carriers is a corporation or limited liability company (LLC) formed under the laws of one of the three Compact signatories: the District of Columbia, the State of Maryland, and the Commonwealth of Virginia. The statutes of each signatory provide for termination of the existence of a domestic corporation or LLC, or termination of the intrinsic legal capacity of a domestic corporation or LLC to do business, upon a failure to file in timely fashion certain periodic reports or pay in timely fashion certain periodic fees.¹⁰

Information obtained from the websites of the District of Columbia Department of Consumer and Regulatory Affairs,¹¹ Maryland State Department of Assessments and Taxation,¹² and Virginia State Corporation Commission¹³ indicates that the existence or intrinsic right to do business of each respondent stands terminated as of this date, of which we may take official notice pursuant to Rule 22-07.¹⁴

The Commission first brought this issue to the attention of respondents by letters dated November 24, 2015, and directed each respondent to submit proof of having reestablished good standing with its home jurisdiction. Respondents have yet to comply.

III. REVIEW OF COMMISSION PRECEDENT

This Commission has previously been confronted with varying circumstances in which corporations seeking or holding WMATC authority sought to exceed the entity's authority to transact business conferred

⁸ Compact, tit. II, art. XI, § 10(d).

⁹ Compact, tit. II, art. XIII, § 6(f).

¹⁰ See D.C. CODE § 29-106.01-02 (LexisNexis 2016); MD. CODE ANN., CORPS. & ASS'NS §§ 3-503, 3-514(a), 4A-911, & 4A-919(a) (LexisNexis 2016); VA. CODE §§ 13.1-752(A),(C), 13.1-914(A),(C), & 13.1-1050.2(A),(C) (2016) (available at <http://law.lis.virginia.gov/vacode>). See also *Price v. Upper Chesapeake Health Ventures, Inc.*, 995 A.2d 1054, 1062 (Md. Ct. Spec. App. 2010); *Cloverfields Improvement Ass'n, Inc., v. Seabreeze Properties, Inc.*, 362 A.2d 675 (Md. Ct. Spec. App. 1976), *aff'd*, 373 A.2d 935 (Md. 1977).

¹¹ <https://corp.dhra.dc.gov/Account.aspx/LogOn?ReturnUrl=%2f>.

¹² <http://sdat.resiusa.org/ucc-charter/Pages/CharterSearch/default.aspx>.

¹³ https://cisiweb.scc.virginia.gov/z_container.aspx.

¹⁴ See, e.g., *In re C&M Corp., t/a C&M Transp.*, No. MP-95-57, Order No. 4517 (Mar. 9, 1995).

by their own articles of incorporation or by state laws governing corporations.

In the case of *In re Sky Lines, Inc.*, an applicant seeking a WMATC Certificate of Authority had a provision in its articles of incorporation stating that the purpose of the corporation was to "provide services as a passenger motor carrier sightseeing tours, shuttle transfers, non-sightseeing charters and charter services between points in the United States and Canada."¹⁵ Finding that it was clear that applicant intended to restrict its transportation operations to charter service, the Commission approved the application but placed a restriction in the applicant's Certificate of Authority limiting its operations to charter service.¹⁶

In a similar case, in *In re Boatwrights Incorporated*, an applicant's articles of incorporation stated that it was formed for the purpose of providing "safe, dependable, non-emergency transportation service for elderly and disabled persons for profit."¹⁷ Finding that this language in the applicant's articles of incorporation established a limitation concerning the persons the corporation was lawfully entitled to transport, the Commission stated "it would be inappropriate to issue operating authority exceeding the corporation's limitation" and directed that a matching restriction be placed in the Certificate of Authority granted to that applicant.¹⁸

In *In re Reston Commuter Bus, Inc.*, the Commission dismissed an application for want of prosecution where operation as a common carrier appeared to exceed the scope of corporate powers set forth in an applicant's articles of incorporation, and applicant failed to address the issue.¹⁹ This Commission stated that "failure to establish that [applicant's] articles of incorporation would permit it to operate as a common carrier . . . preclud[ed] *ab initio* any possibility of this Commission finding applicant fit, willing and able properly to perform the proposed service."²⁰

In the case of *In re K&V Limousine Service LLC*, the applicant, a District of Columbia LLC, filed a certificate of dissolution at the District of Columbia Department of Consumer and Regulatory Affairs, while its application for a Certificate of Authority was pending

¹⁵ *In re Sky Lines, Inc.*, No. AP-91-46, Order No. 3886 at 2 (Feb. 12, 1992).

¹⁶ *Id.*

¹⁷ *In re Boatwrights Incorporated*, No. AP-91-43, Order No. 3889 at 2 (Feb. 20, 1992).

¹⁸ *Id.*

¹⁹ *In re Reston Commuter Bus, Inc.*, No. 990, Order No. 1715 (June 23, 1977).

²⁰ *Id.*

before the Commission.²¹ The Commission terminated the proceeding for want of prosecution because applicant no longer existed.²²

In another application proceeding, the Commission had denied an application by D.C. Medicaid Transportation, Inc. (DCMT) for lack of financial fitness.²³ DCMT appealed the decision to the United States Court of Appeals for the District of Columbia Circuit, but the case was remanded so the Commission could make an initial determination as to whether "DCMT, having had its corporate charter revoked, was statutorily barred from exercising the authority it had requested in its application for a certificate of public convenience and necessity."²⁴ Upon remand, the Commission found that "revocation of DCMT's corporate charter by the District of Columbia, of which we hereby take official notice, renders DCMT unable as a matter of law to perform the duties of a carrier subject to the Compact."²⁵ DCMT requested reconsideration of the Commission's decision, and the Commission affirmed its holding, explaining, "[e]ven if the Commission had found DCMT fit to operate, we believe its loss of corporate status would prevent us from granting it authority anyway."²⁶

Finally, in the case of *Devine Escape Limousine and Sedan LLC*, the Commission held that a corporate director's transaction of business in the name of a forfeited Maryland corporation detracted from his showing of fitness to control a WMATC carrier.²⁷

The cases cited thus far were all application proceedings, in which the Commission applies the standard specified in Article XI, Section 7, of the Compact, or its predecessor provision.²⁸ However, on

²¹ *In re K&V Limousine Service LLC*, No. AP-04-192, Order No. 8656 (Apr. 21, 2005).

²² *Id.*

²³ *In re D. C. Medicaid Transp., Inc.*, No. 968, Order No. 1749 at 28 (Sept. 16, 1977).

²⁴ *In re D. C. Medicaid Transp., Inc.*, No. 968, Order No. 2009 at 2 (July 10, 1979), *aff'd on reconsideration*, Order No. 2029 (Sept. 6, 1979).

²⁵ *Id.* at 3.

In re D. C. Medicaid Transp., Inc., No. 354, Order No. 2009 at 3 (July 10, 1979), *aff'd on reconsideration*, Order No. 2029 (Sept. 6, 1979).

²⁶ Order No. 2029 at 2.

²⁷ *In re Devine Escape Limousine and Sedan LLC*, No. AP-10-142, Order No. 12,700 (Jan. 25, 2011).

²⁸ The current version of Article XI, Section 7(a) of the Compact provides:

When an application is made under this section for a Certificate of Authority, the Commission shall issue a certificate to any qualified applicant, authorizing all or any part of the transportation covered by the application, if it finds that-

(i) the applicant is fit, willing, and able to perform that transportation properly, conform to the

numerous occasions, the Commission has assessed civil forfeitures or revoked Certificates of Authority by carriers as a consequence of revoked corporate charters.

In the case of *Bannister Enterprises, Inc.*, the Commission took notice that the carrier's corporate charter had lapsed and directed a carrier by letter to file a certificate of good standing.²⁹ After the carrier failed to respond, and upon evidence of numerous regulatory violations, the Commission initiated a formal investigation, observing, "[i]t is axiomatic that a nonexistent corporation cannot be a party to a contract and, absent a valid and binding contract, Certificate No. 32 authorizes no service" ³⁰ The carrier responded by filing a certificate of good standing from the District of Columbia, but the Commission revoked the carrier's Certificate of Authority on other grounds.³¹

Under the current laws of the signatories, upon administrative dissolution of Maryland corporations, Virginia corporations, and Virginia LLCs, the entity ceases to exist and the entity's assets are transferred by operation of law to the directors, managers, or members.³² The Commission has repeatedly found that when such an event occurs, it constitutes an unauthorized transfer of a WMATC Certificate of Authority in violation of Article XI, Section 11, of the Compact and any operations by the successors to those assets under color of the certificate are unauthorized.³³ In one of these cases, this

provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and

(ii) that the transportation is consistent with the public interest.

²⁹ See *In re Bannister Enters., Inc.*, No. MP-80-20, Order No. 2181 (Jan. 12, 1981).

³⁰ *Id.* at 1-2.

³¹ *In re Bannister Enters., Inc.*, No. MP-80-20, Order No. 2205 (Mar. 17, 1981).

³² See *Cloverfields Improvement Ass'n v. Seabreeze Properties, Inc.*, 362 A.2d 675, 678 (Md. Ct. Spec. App. 1976) (Maryland corporations); VA. CODE ANN. § 13.1-752(C) (Virginia stock corporations); VA. CODE ANN. § 13.1-914(C) (Virginia nonstock corporations); VA. CODE ANN. § 13.1-1050.2(C) (Virginia LLCs).

³³ *In re Jimmie Lee Davenport and James L. Hughes*, No. MP-04-164, Order No. 9851 (Aug. 18, 2006) modified, Order No. 9987 (Oct. 11, 2006) (assessing \$5,000 civil forfeiture for unauthorized transfer of Certificate of Authority and unauthorized operations under color of certificate after corporate charter revoked); *In re V.I.P. Tours, Inc.*, No. MP-01-98, Order No. 6577 (Mar. 20, 2002) (assessing \$250 civil forfeiture for unauthorized transfer of Certificate of Authority resulting from revoked corporate charter); *In re Junior's Enters., Inc.*, No. MP-01-103, Order No. 6549 at 3-4 (Feb. 21, 2002) (same); *In re Atlantic Valet, Inc., t/a Atlantic Transp.*, No. MP-01-34, Order No. 6254 (June 15, 2001) (revoking Certificate of Authority for willful failure to comply with certificate transfer provision of Compact resulting from forfeiture of corporate charter).

Commission went even further and said that a Maryland corporation that had its corporate charter revoked, "no longer exists and cannot be said to possess Certificate No. 271."³⁴

In a 1995 case cited earlier in this order, *In re C&M Corporation*, the Commission took official notice that a carrier's corporate charter had been revoked and revoked the Commission's approval of the WMATC Insurance Endorsements on file for that carrier and directed the carrier to file a replacement insurance endorsement and a certificate of good standing within 30 days.³⁵ A subsequent application to transfer the certificate of authority to a new entity was conditionally approved,³⁶ but the applicant did not satisfy the conditions of issuance and the certificate of authority was automatically revoked by operation of Regulation No. 65 after it was suspended for 365 consecutive days for lack of insurance.³⁷

In 2007, the Commission launched an investigation of four carriers whose corporate charters had been revoked. The Commission stated, "[t]he Compact provides that a WMATC carrier shall provide safe and adequate transportation service, equipment, and facilities. Revocation of a corporate charter, however, renders a carrier unable to perform these duties as a matter of law."³⁸ The order revoked the Commission's approval of WMATC Insurance Endorsements on file for these carriers, and directed those carriers to produce a replacement insurance endorsement and revive their corporate charter and produce a certificate of good standing within 30 days. The Commission later revoked the Certificates of Authority of three carriers after they failed to comply.³⁹

IV. CONCLUSIONS

Collectively, this body of precedent supports the proposition that corporations and LLCs that no longer exist, or that have lost the intrinsic legal capacity to transact business beyond the minimum acts necessary for liquidating assets and winding up one's affairs, are unable to lawfully perform transportation services under a WMATC Certificate of Authority in accordance with Article XI, Section 5, of the Compact. Permitting such corporations and LLCs to continue conducting WMATC operations would not be consistent with the public interest.

³⁴ Order No. 6254 at 2.

³⁵ *In re C&M Corp., t/a C&M Transp.*, No. MP-95-57, Order No. 4517 (Mar. 9, 1995).

³⁶ *In re C&M Corp., t/a C&M Transp. & C&M Tour & Transp., Inc.*, No. AP-95-25, Order No. 4715 (Dec. 5, 1995).

³⁷ See *In re C&M Corp., t/a C&M Transp.*, No. MP-95-57, Order No. 4793 (Mar. 13, 1996).

³⁸ *In re Metro Medicab, Inc.*, No. MP-07-023, Order No. 10,267 (Feb. 1, 2007) (footnote and internal quotation marks omitted).

³⁹ *In re Metro Medicab, Inc.*, No. MP-07-023, Order No. 10,392 (Apr. 6, 2007).

V. ORDER TO SHOW CAUSE

Given the apparent violations of the Compact and Commission precedent, each respondent shall have 30 days to file a certificate of good standing from the state under whose laws it was formed or show cause why the Commission should not: (a) assess a civil forfeiture against it, (b) suspend or revoke its WMATC authority, and/or (c) otherwise direct that it cease operations under its WMATC authority.

THEREFORE, IT IS ORDERED:

1. That the Commission hereby initiates this investigation under Article XIII, Section 1, of the Compact.

2. That each carrier identified above is hereby named a party respondent.

3. That, within 30 days, each respondent shall file with the Commission a current certificate of good standing issued by its home jurisdiction or show cause why the Commission should not (a) assess a civil forfeiture against it, (b) suspend or revoke its WMATC authority, and/or (c) otherwise direct that it cease operations under its WMATC authority.

4. That each respondent may file within 15 days from the date of this order a 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 HOLCOMB, DORMSJO, AND RICHARD:



William S. Morrow, Jr.
Executive Director

Appendix to Order No. 16,538

WMAT C No.	Name	Entity Type	State of Formation	Formation Date
230	Fun Travel Service, Inc.	CORP	MD	11/4/1992
290	Quiana Tours, Inc.	CORP	MD	11/2/1994
340	Tabi Club International, L.L.C., t/a Free America Washington D.C.	LLC	DC	2/1/1996
392	Best Transportation Services, Inc., t/a BTS Airport Express	CORP	MD	11/19/1992
539	A-Fair Transportation Inc.	CORP	MD	1/30/2003
611	Dependable Transportation, Inc	CORP	MD	11/5/2007
866	Dip & Sons Incorporated, t/a Dip & Sons Transportation Service	CORP	MD	9/8/2003
1299	Miles Away Charter, LLC	LLC	MD	9/9/2004
1538	Platinum Limousine Service, Inc.	CORP	MD	12/22/1999
1734	Elite Limo Service LLC	LLC	MD	6/3/2010
1760	Bravo Transportation LLC	LLC	MD	9/29/2010
2042	Sigma Corporation	CORP	VA	9/5/2012
2147	TSTG, LLC, t/a TNT Transportation	LLC	MD	11/14/2011
2475	Ait Sadden LLC	LLC	VA	2/19/2014
2703	Dunamis Chariots of Hope, LLC	LLC	DC	7/28/2014