

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,653

IN THE MATTER OF:

Served October 26, 2016

SWIFT SEDANS LLC, Suspension and)
Investigation of Revocation of)
Certificate No. 2446)

Case No. MP-2016-015

This matter is before the Commission on the response of respondent to Order No. 16,266, served March 25, 2016.

I. BACKGROUND

Certificate No. 2446 was automatically suspended on January 30, 2016, pursuant to Regulation No. 58-12, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 16,164, served February 1, 2016, noted the automatic suspension of Certificate No. 2446, directed respondent to cease transporting passengers for hire under Certificate No. 2446, 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. 2446. Respondent paid the \$100 late fee on February 23, 2016, but failed to file a replacement endorsement in timely fashion, and Certificate No. 2446 was revoked in Order No. 16,241, served March 8, 2016.

Respondent subsequently submitted a \$1.5 million replacement WMATC Endorsement on March 14, 2016, and timely filed an application for reconsideration of the revocation of Certificate No. 2446.

Certificate No. 2446 was reinstated in Order No. 16,266 on March 25, 2016, in accordance with WMATC Regulation No. 58-15(b), but because the effective date of the replacement endorsement was March 11, 2016, instead of January 30, 2016 - thereby creating a 41-day coverage gap - Order No. 16,266 directed respondent to verify cessation of operations as of January 30, 2016, as mandated by Regulation No. 58-14. The order further directed respondent to corroborate its verification with copies of respondent's pertinent business records from November 1, 2015, to March 25, 2016, also as contemplated by Regulation No. 58-14.

II. RESPONSE TO ORDER NO. 16,266

Respondent submitted a new \$1.5 million WMATC Insurance Endorsement on April 26, 2016, with an effective date of January 30, 2016, and an expiration date of April 13, 2016.¹ This eliminates the

¹ It should be noted that prior to April 26, 2016, the WMATC Endorsement filed by respondent on March 14 was cancelled on April 13, 2016, effective

41-day gap in coverage created by the replacement endorsement filed March 14, 2016. But elimination of the coverage gap does not alter the fact that Certificate No. 2446 was suspended/revoked from January 30, 2016, through March 24, 2016.

Weekly Uber "Payment Statements" produced by respondent in response to Order No. 16,266, and which contain many entries showing payment for "Black Car" service throughout the months of February and March, clearly establish that respondent continued operating under Certificate No. 2446 while suspended and revoked. Respondent's president, Tarik Oualla, does not deny this. Instead, he asserts that he was not aware of the "revocation" of Certificate No. 2446 until he "called" the Commission, suggesting that it was not until sometime after Certificate No. 2446 was revoked on March 8, 2016, that respondent became aware that its operating authority was no longer active. The record, however, shows that the suspension order, Order No. 16,164, was delivered to respondent by the U.S. Postal Service on February 6, 2016, more than a month before the revocation took place.

Any call from Mr. Oualla should have been placed prior to suspension, in any event, not after. The record shows that the Commission notified respondent by letter dated January 6, 2016, that respondent's WMATC Endorsement had been cancelled effective January 30, 2016. Under Regulation No. 58-11:

When a WMATC carrier's insurance has terminated or is about to terminate the carrier must contact the Commission to ascertain whether the necessary WMATC Insurance Endorsement has been filed before continuing to operate on and after the termination date. Proof a WMATC carrier has satisfied its duty to verify shall consist of contemporaneous written verification from the Commission.

The Commission has no record of any call from respondent prior to January 30, 2016.

III. ORDER TO SHOW CAUSE

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.²

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a

May 13, 2016. Because the March 14 endorsement and the April 26 endorsement both involve the same policy, the 30-day cancellation-notice rule in WMATC Regulation No. 58-08, converts the termination date of the April 26 endorsement from April 13, 2016, to May 13, 2016.

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

provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.³

Respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 2446, for knowingly and willfully conducting operations under a suspended/revoked 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, and/or suspend or revoke Certificate No. 2158, for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

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 HOLCOMB, DORMSJO, AND RICHARD:



William S. Morrow, Jr.
Executive Director

³ Compact, tit. II, art. XI, § 10(c).

⁴ See *In re Daniel M Manna, t/a Daniel Manna Limo. Serv.*, No. MP-14-027, Order No. 15,267 (Dec. 30, 2014) (directing carrier to show cause as to Uber operations in WMATC vehicles while suspended); *In re Dereje Bogale Worbelo, t/a Worbelo Limo Serv.*, No. MP-14-005, Order No. 15,133 (Oct. 21, 2014) (assessing forfeiture for Uber operations in WMATC vehicles while suspended notwithstanding gap closed); *In re Ibrahim A. Fahadi*, No. MP-07-117, Order No. 11,883 (Mar. 11, 2009) (directing carrier to show cause as to operations while suspended notwithstanding gap closed).