

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,725

IN THE MATTER OF:

Served December 7, 2016

Application of A-FAIR)
TRANSPORTATION INC. to Acquire) Case No. AP-2016-158
Certificate No. 539 from A-FAIR)
TRANSPORTATION INC.)

By application accepted for filing September 19, 2016, applicant, A-Fair Transportation Inc., a Maryland entity formed on March 3, 2010, (A-Fair II), seeks Commission approval to acquire Certificate No. 539 from A-Fair Transportation Inc., a Maryland entity formed on January 30, 2003, (A-Fair I). Both entities share the same president, Mr. Getahun Woldemacael. The application is unopposed.

Under Article XI, Section 11(a), of the Compact, a person may not transfer a certificate of authority unless the Commission approves the transfer as consistent with the public interest. The public interest analysis focuses on the acquiring party's fitness.¹

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Normally, such evidence would establish an applicant's fitness,² but applicant's president, Mr. Woldemacael, has a history of controlling a carrier, A-Fair I, with regulatory violations.

Earlier this year, the Commission discovered that the charter of A-Fair I stood forfeited and that A-Fair I's intrinsic right to conduct business had all but terminated under Maryland law and, by extension, under the Compact.³ On August 29, 2016, in Case No. MP-2016-

¹ *In re Quality Med. Supplies LLC, t/a F & J Healthcare Servs., & Tingem Health Care Servs. Inc.*, No. AP-04-25, Order No. 8033 (May 27, 2004).

² *Id.* at 2.

³ *In re A-Fair Transp. Inc.*, No. MP-16-143, Order No. 16,697 at 1-3 (Nov. 22, 2016).

143, the Commission gave A-Fair I 30 days to file a certificate of good standing from Maryland 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

Instead of causing A-Fair I to file a certificate of good standing from Maryland, Mr. Woldemecael caused A-Fair II to file the instant application for transfer of Certificate No. 539. On the strength of said application, we found that A-Fair I had shown good cause for not revoking Certificate No. 539 and declined to assess a forfeiture. However, we suspended Certificate No. 539 for A-Fair I's failure to comply with Article XI, Section 5, of the Compact and Order No. 16,538.⁵ As we explained, "permitting 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 to continue conducting WMATC operations is not consistent with the public interest."⁶ We determined that the suspension would remain in effect until Certificate No. 539 is reissued to A-Fair II, revoked pursuant to Regulation No. 65, or otherwise terminated, whichever occurs first.⁷

Inasmuch as we have already decided, based on the combined records in this proceeding and Case No. MP-2016-143, not to revoke Certificate No. 539 but only to suspend it until such time as it is reissued in the name of A-Fair II, and considering the terms of probation⁸ and other conditions prescribed herein, the Commission finds applicant to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements and, therefore, that the transfer of Certificate No. 539 to applicant is consistent with the public interest.

In closing, we note that applicant paid the application fee by check drawn on the account of "Fair Transportation". When asked about this, Mr. Woldemecael responded that "Fair Transportation is a sole proprietorship owned by the owner of A-Fair Transportation, Inc., Getahun Woldemecael." Applicant and Mr. Woldemecael are admonished that in accordance with Article XI, Section 11(b), of the Compact, Mr. Woldemecael may not operate as a sole proprietor under WMATC No. 539. Applicant is admonished to keep its assets, books, finances, and operations completely separate from Mr. Woldemecael's.

⁴ *Id.* at 3.

⁵ *Id.* at 6.

⁶ *Id.* at 4.

⁷ *Id.* at 4-5.

⁸ See *In re Quiana Tours, Inc.*, No. AP-02-140, Order No. 7316 (July 17, 2003) (placing transferee on probation in light of WMATC violations committed by transferee's owner).

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 539 shall be reissued to A-Fair Transportation Inc., 101 Bralan Court, Gaithersburg, MD 20877-1659.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate of Authority No. 539 has been reissued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents and present its revenue vehicle(s) for inspection within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) original Certificate No. 539.

4. That applicant shall be placed on probation for a period of one year commencing with the reissuance of Certificate No. 539 in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

5. That the transfer of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of reissuance prescribed herein.

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



William S. Morrow, Jr.
Executive Director