

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,839

IN THE MATTER OF:

Served February 15, 2017

Application of TABI CLUB ) Case No. AP-2016-205  
INTERNATIONAL L.L.C. for a )  
Certificate of Authority -- )  
Irregular Route Operations )

Applicant is a Virginia limited liability company seeking a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of 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.

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,<sup>1</sup> but in this case applicant's president, Mr. Tatsuya Fukahori, was president of the similarly-named Tabi Club International, L.L.C., a District of Columbia limited liability company, trading as Free America Washington D.C., (Tabi I), when the Commission revoked its WMATC Certificate of Authority No. 340 on November 22, 2016. The Commission had discovered that the articles of organization of Tabi I stood revoked and that its intrinsic right to conduct business had all but terminated under District law and, by extension, under the Compact.<sup>2</sup> The Commission gave Tabi I 30 days to file a certificate of good standing from the District or show cause why the Commission

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<sup>1</sup> *In re Et Tran, L.L.C.*, No. AP-16-151, Order No. 16,688 at 2 (Nov. 17, 2016).

<sup>2</sup> *In re Tabi Club Int'l, L.L.C., t/a Free America Wash. D.C.*, No. MP-16-146, Order No. 16,697 at 1-3 (Nov. 22, 2016).

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.<sup>3</sup> Mr. Fukahori responded by filing a certificate of good standing from Virginia for applicant instead of a certificate of good standing from the District for Tabi I. The Commission responded by revoking Certificate No. 340.<sup>4</sup>

When a person controlling an applicant has a record of violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5) whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.<sup>5</sup> A review of Commission precedent reveals that the Commission recently approved two transfer applications under circumstances similar to those presented in the instant proceeding.

As with Tabi I, the Commission discovered that two other carriers - A-Fair Transportation Inc., WMATC Carrier No. 539, and Miles Away Charter, LLC, WMATC Carrier No. 1299 - each had their charter dissolved or forfeited.<sup>6</sup> And as with Tabi I, the Commission gave each carrier 30 days to file a certificate of good standing or show cause why the Commission should not assess a civil forfeiture and/or suspend or revoke the carrier's WMATC authority.<sup>7</sup> Neither carrier submitted a certificate of good standing. Instead, in each case, a commonly-controlled affiliate filed an application to acquire the carrier's WMATC certificate of authority.<sup>8</sup> And in each case the Commission suspended the WMATC certificate of authority pending a final resolution of the corresponding transfer application.<sup>9</sup> Later, the Commission approved the two transfer applications subject to a one-year period of probation for each applicant and to certain other conditions.<sup>10</sup>

Based on the evidence in this record, and considering the terms of probation and other conditions prescribed herein, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the

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<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.* at 4.

<sup>5</sup> Order No. 16,688.

<sup>6</sup> Order No. 16,697 at 1-3.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.* at 4-5.

<sup>10</sup> *In re Miles Away Charter, LLC*, No. AP-16-156, Order No. 16,747 (Dec. 15, 2016); *In re A-Fair Transp. Inc.*, No. AP-16-158, Order No. 16,725 (Dec. 7, 2016).

Compact, and conform to the rules, regulations, and requirements of the Commission.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 340 shall be issued to Tabi Club International L.L.C., 2762 Washington Boulevard, #1C, Arlington, VA 22201-1957.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued 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; and (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.

4. That applicant shall be placed on probation for a period of one year commencing with the issuance of Certificate No. 340 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 grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

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



William S. Morrow, Jr.  
Executive Director