

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,855

IN THE MATTER OF:

Served March 1, 2017

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. 16,653, served October 26, 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, as noted in Order No. 16,164, served February 1, 2016. Respondent failed to file a replacement endorsement within 30 days, and Certificate No. 2446 was revoked in Order No. 16,241, on March 8, 2016. Respondent thereafter submitted the necessary WMATC Endorsement and filed a timely application for reconsideration, and Certificate No. 2446 was reinstated in Order No. 16,266, on March 25, 2016.

Because the effective date of the replacement endorsement was March 11, 2016, instead of January 30, 2016 - thereby creating a 41-day gap in required coverage - Order No. 16,266 continued the investigation and directed respondent to verify cessation of operations as of January 30, 2016, in accordance with Regulation No. 58-14(a). The order further directed respondent to corroborate its verification with copies of respondent's pertinent business records, also in accordance with Regulation No. 58-14(a).

Respondent produced a statement and certain business records shortly thereafter. The statement did not address whether respondent continued operating while suspended/revoked, but, as noted in Order No. 16,653, respondent's business records clearly establish that respondent continued operating under Certificate No. 2446 while suspended/revoked.

Under the Compact, 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.<sup>1</sup> Each day of the violation constitutes a separate violation.<sup>2</sup>

---

<sup>1</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>2</sup> Compact, tit. II, art. XIII, § 6(f)(ii).

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.<sup>3</sup>

Accordingly, Order No. 16,653 directed respondent 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.

## **II. RESPONSE TO ORDER NO. 16,653 AND FINDINGS**

In response to Order No. 16,653, respondent has submitted a statement that appears to have been signed by respondent's president, Mr. Tariq Oualla, in which he does not deny that respondent operated while suspended/revoked, but he does deny that respondent did so knowingly and willfully.

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>4</sup> 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.<sup>5</sup> "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.<sup>6</sup>

As noted in Order No. 16,653, the record shows that the suspension order, Order No. 16,164, was delivered to respondent by the U.S. Postal Service on February 6, 2016. We therefore find that all operations after that date and continuing until Certificate No. 2446 was reinstated were knowing and willful and therefore subject to civil forfeiture.

On the other hand, we find that respondent has shown cause for not suspending or revoking Certificate No. 2446. Shortly after producing its business records, respondent submitted a new \$1.5 million WMATC Endorsement with an effective date of January 30, 2016, and an expiration date of April 13, 2016, eliminating the 41-day gap in required coverage.

In situations similar to this one - operating while suspended but not while uninsured - the Commission has assessed a civil forfeiture of \$250 for each day of unauthorized operations and placed

---

<sup>3</sup> Compact, tit. II, art. XI, § 10(c).

<sup>4</sup> *In re Fikre A Mamo, t/a DMV Limo*, No. MP-14-008, Order No. 15,423 at 3 (Mar. 3, 2015).

<sup>5</sup> *Id.* at 3.

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

carriers on probation for one year.<sup>7</sup> We shall follow the same course here.

### III. ASSESSMENT OF FORFEITURE AND PROBATION

Respondent's business records indicate that respondent operated knowingly and willfully on 43 separate days while Certificate No. 2446 was suspended/revoked. Accordingly, we shall assess a civil forfeiture of \$250 per day, for 43 days, or \$10,750, and place respondent on probation. We will suspend all but 25 percent of the forfeiture, rounded to the nearest \$100, or \$2,700, based on the presence of one reduction factor: respondent's production of inculpatory records.<sup>8</sup> Failure to pay the net forfeiture in a timely fashion shall result in reinstatement of the full \$10,750.

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 \$10,750 for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58-12, and Order No. 16,164 on 43 separate days; provided, that all but \$2,700 shall be suspended in recognition of respondent's production of inculpatory records.

2. That respondent is hereby directed to pay to the Commission within 30 days of the date of this order, by check or money order, the sum of two thousand seven hundred dollars (\$2,700).

3. That the full forfeiture of \$10,750 assessed in this order shall be immediately due and payable if respondent fails to timely pay the net forfeiture of \$2,700.

4. That respondent shall be placed on probation for a period of one year, such that a willful violation of the Compact, or of the Commission's rules, regulations, or orders thereunder, by respondent during the period of probation shall constitute grounds for immediate suspension and/or revocation of respondent's operating authority regardless of the nature and severity of the violation.

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



William S. Morrow, Jr.  
Executive Director

---

<sup>7</sup> Order No. 15,423 at 3.

<sup>8</sup> See *id.* at 4 (same).