

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,004

IN THE MATTER OF:

Served May 16, 2017

BUTLER MEDICAL TRANSPORT, LLC,)
Trading as BUTLER MOBILITY,)
Suspension and Investigation of)
Revocation of Certificate No. 1748)

Case No. MP-2017-037

This matter is before the Commission on respondent's failure to comply with Order No. 16,924, served April 6, 2017.

I. BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 1748 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

On April 5, 2016, RLI Insurance Company filed on respondent's behalf a \$3 million primary WMATC Insurance Endorsement with an effective date of April 1, 2016, and an expiration date of April 1, 2017. On March 31, 2017, Old Republic Insurance Company filed on respondent's behalf a \$1 million primary WMATC Insurance Endorsement with an effective date of September 1, 2016, and an expiration date of June 1, 2017.

Commission Regulation No. 58-07 governs commencement and termination of WMATC Insurance Endorsements, as follows:

Coverage under a WMATC Insurance Endorsement shall commence on the specified effective date and continue until the earliest of:

- (a) the specified expiration date;

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

(b) the effective date specified in a notice of cancellation or thirty (30) days after the notice is received by the Commission, whichever is later;

(c) thirty (30) days after receipt by the Commission of an acceptable application from the insured for voluntary termination of WMATC operating authority;

(d) thirty (30) days after revocation by the Commission; or

(e) the effective date of a later-executed replacement Endorsement.

Commencement and termination shall occur at 12:01 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable.

Under Regulation No. 58-07(e), the filing of the \$1 million Old Republic Endorsement on March 31 caused the \$3 million RLI Endorsement to stand terminated as of September 1, 2016, leaving respondent underinsured by \$500,000 as of September 1, 2016, and causing Certificate No. 1748 to become automatically suspended under Regulation No. 58-12 as of that date.³

Order No. 16,920, served April 4, 2017, noted the automatic suspension of Certificate No. 1748 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1748, 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. 1748.

Respondent paid the late fee and submitted a \$5 million, excess of \$1 million, WMATC Insurance Endorsement on April 6, 2017, and the suspension was lifted in Order No. 16,924. But because the effective date of the new excess endorsement was December 1, 2016, instead of September 1, 2016, thereby creating a 91-day gap in required coverage, Order No. 16,924 gave respondent 30 days, in accordance with Regulation No. 58-14(a), to submit a statement verifying cessation of WMATC operations as of September 1, 2016, and to produce copies of respondent's business records for the period beginning July 1, 2016, and ending April 6, 2017.

Respondent later submitted a \$2 million, excess of \$1 million, WMATC Endorsement on April 18, 2017, for the period beginning September 1, 2016, and ending December 1, 2016. This had the effect of closing the 91-day coverage gap. But closing an insurance gap does not

³ See *In re Challenger Transp., Inc.*, No. MP-14-139, Order No. 15,293 (Jan. 6, 2015) (applying Reg. No. 58-07(e)).

relieve a carrier of the requirements of Regulation No. 58-14(a),⁴ and respondent has yet to produce the statement and business records required by that regulation, as set forth in Order No. 16,924.

II. ORDER TO SHOW CAUSE

Regulation No. 58-14(b) states that upon the failure of a carrier to comply timely with the requirements of Regulation No. 58-14(a), "the Executive Director shall issue an order directing the carrier to show cause why a civil forfeiture should not be assessed against the carrier and/or why the carrier's operating authority should not be suspended or revoked."

Pursuant to Regulation No. 58-14(b), 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. 1748.

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. 1748, for knowingly and willfully violating 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.

FOR THE COMMISSION:



William S. Morrow, Jr.
Executive Director

⁴ *In re J T E Inc.*, No. MP-16-047, Order No. 16,621 (Oct. 17, 2016).