

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,110

IN THE MATTER OF:

Served July 20, 2017

DAFRE, INC., Trading as DAFRE) Case No. MP-2016-088
TRANSPORTATION, Suspension and)
Investigation of Revocation of)
Certificate No. 607)

This matter is before the Commission on respondent's response to Order No. 16,566, served September 14, 2016, directing respondent to show cause why the Commission should not assess a civil forfeiture against respondent and/or suspend or revoke Certificate No. 607.

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. 607 for a minimum of \$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 May 5, 2015, the \$5 million primary WMATC Insurance Endorsement on file for respondent expired without having been fully replaced by one or more WMATC Endorsements. WMATC had received a replacement endorsement on May 4, 2015, in the amount of \$1.5 million, but WMATC had received no endorsement(s) for the remaining \$3.5 million in coverage required by Regulation No 58. This came to WMATC staff's attention on May 5, 2016, when the \$1.5 million endorsement filed May 4, 2015, expired without having been fully replaced by one or more WMATC Endorsements, once again. Like the year before, WMATC received a replacement endorsement on May 4, 2016, in the amount of \$1.5 million, but no endorsement(s) for the remaining \$3.5 million in coverage required by Regulation No 58.

Order No. 16,344, served May 6, 2016, noted the automatic suspension of Certificate No. 607 pursuant to Regulation No. 58-12,

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

directed respondent to cease transporting passengers for hire under Certificate No. 607, and gave respondent 30 days to file the necessary WMATC Endorsement(s) and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 607. Respondent did not respond, and Certificate No. 607 was revoked on June 7, 2016, in Order No. 16,408.

Respondent thereafter filed a \$5 million WMATC Insurance Endorsement, paid the \$100 late fee, and submitted a request for reinstatement of Certificate No. 607, and Certificate No. 607 was reinstated in Order No. 16,471 on July 12, 2016, pursuant to Regulation No. 58-15(b).

This investigation continued, however, under Regulation No. 58-14 because the effective date of the June 24, 2016, replacement Endorsement is May 5, 2016, instead of May 5, 2015, the date on which respondent's 2014-2015 WMATC Endorsement terminated without full replacement and Certificate No. 607 became automatically suspended under Regulation No. 58-12 as a result.

Order No. 16,471 gave respondent until August 11, 2016, to verify whether respondent ceased operating on May 5, 2015, and to produce copies of respondent's business records from January 1, 2015, to July 12, 2016, in accordance with Regulation No. 58-14(a). Respondent did not respond.

In accordance with Regulation No. 58-14(b), Order No. 16,566, served September 14, 2016, directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 607, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

II. RESPONSE AND FINDINGS

Under the Compact, "transportation solely within the Commonwealth of Virginia" is excluded from WMATC jurisdiction.³ According to the sworn statement of respondent's treasurer, Richard Payton: "DAFRE, INC has not transported any passengers for hire outside of Virginia since before May 2015."

Commission records show that respondent is located in Virginia outside the Metropolitan District and that respondent possesses intra-Virginia passenger carrier authority, common and contract, from the Virginia Department of Motor Vehicles.

Daily credit card sales during the period in question, as reflected in merchant service records produced by respondent in March and April of 2017, are consistent with individually ticketed

³ Compact, tit. II, art. XI, § 3(g).

operations under respondent's Virginia common carrier authority but not with the hourly charter rates in respondent's WMATC tariff.

III. CONCLUSION

Inasmuch as transportation solely within the Commonwealth of Virginia is excluded from our jurisdiction, we find that the record does not support a charge of knowingly and willfully conducting WMATC operations under an invalid/suspended certificate of authority.

As for respondent's seven- to eight-month delay in producing documents as required by Regulation No. 58-14(a) and directed by Order No. 16,471, we shall assess a civil forfeiture of \$250.⁴

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 \$250 for knowingly and willfully violating Regulation No. 58-14(a) and Order No. 16,471.

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 hundred fifty dollars (\$250).

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



William S. Morrow, Jr.
Executive Director

⁴ See *In re J T E Inc.*, No. MP-16-047, Order No. 16,621 at 3-4 (Oct. 17, 2016) (assessing \$250 for failing to produce documents in timely fashion).