

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2181

IN THE MATTER OF:

Served January 12, 1981

Suspension of Certificate No. 32 )  
and Investigation of BANNISTER )  
ENTERPRISES, INC. )

Case No. MP-80-20

By letter dated October 16, 1980, Bannister Enterprises, Inc. (Bannister), was directed pursuant to Title II, Article XII, Section 10(a) to submit a special report to address several deficiencies in the carrier's compliance with Commission requirements. Although the required report was timely filed, it is obvious that most of the involved deficiencies have not been cured. Accordingly, the Commission finds that institution of a formal investigation pursuant to Title II, Article XII, Section 4(g) and 13(b) of the Compact is warranted.

On January 5, 1979, Bannister's Certificate No. 32 was modified at the carrier's request to delete certain operating rights pertaining to service for Amtrak. A correspondingly revised tariff has never been filed despite the carrier's obligation to do so under Regulation 55 and the Commission's directive of October 16, 1980, that such action be taken.

Certificate No. 32, as amended, authorizes, inter alia, charter operations pursuant to a contract between Bannister Enterprises, Inc., and the John F. Kennedy Center for the Performing Arts. The underlying contract, however, names Bannister, Inc., an entity which was never chartered or certificated. Bannister's special report claims that a new contract is being prepared, but no such contract has yet been filed.

The Commission has been advised by the Auditor of the District of Columbia that the corporate charter of Bannister Enterprises, Inc., has lapsed. Accordingly, we required the filing of a certificate of good standing. The carrier's response regarding a management study is totally unrelated to obtaining a certificate of good standing from the District of Columbia government. It is axiomatic that a nonexistent

corporation cannot be a party to a contract and, absent a valid and binding contract, Certificate No. 32 authorizes no service for the Kennedy Center.

Finally, Bannister submitted a contract of lease for two vehicles naming "Bannister Transportation Service" as the lessor and "Bannister Enterprises, Inc. (Pending)", as the lessee by which two vehicles are purportedly leased. The contract, however, is not executed for the lessee and is not witnessed. Moreover, Bannister Transportation Service is not a legal entity but merely a trade name for the sole proprietorship operated by Ernest H. Bannister, Sr. We also note that the certificate of insurance filed for Bannister Enterprises, Inc., covers only one of the two vehicles which the carrier purports to lease and operate.

The above-described inadequacies, if uncorrected, constitute wilfull and serious violations of the Compact, Title II, Article XII, Sections 4(a), 5(a), 9(a) and 10(a), Commission Regulation Nos. 55 (tariffs), 62 (insurance) and 69 (leasing of vehicles), the restriction in part B of Certificate No. 32 and the directives given the carrier on October 16, 1980. Accordingly, we shall direct that appropriate corrective action be taken or that the carrier show cause why its certificate should not be revoked. In the interim, Certificate No. 32 shall be suspended.

THEREFORE, IT IS ORDERED:

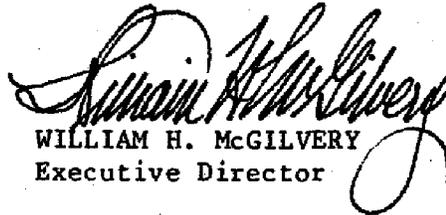
1. That the above-captioned investigation is hereby instituted and Bannister Enterprises, Inc., is hereby made a party respondent to said investigation.

2. That Bannister Enterprises, Inc., file with the Commission at its office, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, (a) two copies of its WMATC Tariff No. 3 cancelling its WMATC Tariff No. 2, said Tariff No. 3 to delete all reference to Amtrak and in all other respects to conform to Commission Regulation No. 55; (b) two copies of a contract between Bannister Enterprises, Inc., and John F. Kennedy Center for the Performing Arts covering the transportation authorized by part B of Certificate No. 32; (c) a certificate of good standing to transact business as a domestic corporation of the District of Columbia; (d) three executed copies of each contract of lease in effect for vehicles leased by Bannister Enterprises, Inc., showing for each the correct lessor and conforming in all respects with Commission Regulation No. 69; and (e) a certificate of insurance (if not already on file) for each vehicle operated by Bannister Enterprises, Inc., whether owned or leased, said certificate to conform in all respects with Commission Regulation No. 62; all no later than the thirtieth (30th) day after the date of service of this order, January 12, 1981.

3. That unless all of the said documents are properly and timely filed, respondent is also directed to file, in writing and under oath, a formal answer to the matters under investigation herein, showing cause, if any there be, why its Certificate No. 32 should not be revoked for wilfull failure to comply with the requirements of the Compact and the regulations, orders and directives of the Commission and further petitioning for an oral hearing on this matter, should such hearing be desired, said petition, if any, to specifically show the necessity for an oral hearing and the evidence to be adduced by respondent thereat.

4. That Certificate No. 32 of Bannister Enterprises, Inc., is hereby suspended and respondent is hereby directed to cease and desist from engaging in the for-hire transportation of passengers between points in the Metropolitan District pending further order of the Commission.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS SCHIFTER, SHANNON AND CLEMENT:

  
WILLIAM H. MCGILVERY  
Executive Director