

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3759

IN THE MATTER OF:

Served May 21, 1991

Investigation Concerning Issuance )  
of Certificates of Authority )

Case No. MP-91-02

By Order No. 3602, served January 18, 1991, the Commission directed each carrier holding a Certificate of Public Convenience and Necessity issued by the Commission to file on or before February 28, 1991, an original and four copies of an affidavit in the form appended to that order. Order No. 3602 stated that failure timely to comply with that requirement would result in suspension of the carrier's WMATC operating authority and an order to show cause why such operating authority should not be revoked for failure to comply with Order No. 3602.

By Order No. 3652, served March 29, 1991, seven carriers were directed, no later than April 12, 1991, to comply with Order No. 3602 or to show cause why their operating authority should not be suspended or revoked. Two of those carriers filed the required affidavit, two had their operating authority revoked for other reasons, and two have their operating authority suspended for other reasons.

The remaining carrier, Joseph C. Smith trading as Smith's Charter Bus Service (Mr. Smith), is the subject of this order. Mr. Smith has neither complied with the requirement of Order Nos. 3602 and 3652 nor attempted to show cause why his operating authority should not be suspended or revoked.

On March 25, 1991, Mr. Smith filed an affidavit that failed to adequately identify the carrier for which the affidavit was filed. Mr. Smith holds WMATC operating authority as a sole proprietor, as named above. A separate entity, Smith's Charter Bus Service, Inc., operates from the same address given by Mr. Smith. Mr. Smith's March 25 affidavit simply identified the carrier as "Smith Charter Service," and attested that the carrier had never been assigned a safety rating by the United States Department of Transportation (USDOT).

On March 25, 1991, the Commission's Executive Director wrote to Mr. Smith, again seeking an affidavit from the WMATC carrier, the sole proprietor. On April 8, 1991, Mr. Smith filed an affidavit bearing the name of the WMATC carrier, but this affidavit was not executed as to the carrier's USDOT safety rating.

Also on April 8, 1991, the Commission received a letter from USDOT stating that "Smith's Charter Bus Service" has a "conditional" safety rating. Again, it is impossible to discern from this appellation whether the rating was issued to the sole proprietor or the corporation. On April 8, 1991, the Commission's Executive Director wrote to both USDOT and Mr. Smith seeking clarification. Neither has responded.

In any event, Mr. Smith is in violation of two Commission orders, having failed to file the required affidavit or to show cause why his Authorization No. SP-134-02 should not be suspended or revoked. Mr. Smith has been more than adequately informed of his obligation, and his failure to comply can only be viewed as "willful" within the meaning of the Compact, Title II, Article XI, Section 10(c). The Commission so finds, and Authorization No. SP-134-02 will be revoked.

THEREFORE, IT IS ORDERED:

1. That Authorization No. SP-134-02 is hereby revoked for willful failure of Joseph C. Smith trading as Smith's Charter Bus Service to comply with Commission Order Nos. 3602 and 3652.
2. That Joseph C. Smith trading as Smith's Charter Bus Service is hereby directed to cease and desist from transportation subject to the Compact, unless otherwise ordered by the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS SCHIFTER AND SHANNON:

  
William H. McGilvery  
Executive Director