

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4232

IN THE MATTER OF:

Served January 11, 1994

Application of RESTON LIMOUSINE & )  
TRAVEL SERVICE, INC., Trading as )  
RESTON LIMOUSINE, for a )  
Certificate of Authority -- )  
Irregular Route Operations )

Case No. AP-93-36

By application accepted for filing November 17, 1993, Reston Limousine & Travel Service, Inc., trading as Reston Limousine (Reston or applicant), a Virginia corporation, seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

Notice of this application was served on November 19, 1993, in Order No. 4210, and Reston was directed to publish further notice in a newspaper and file an affidavit of publication. Reston complied. The application is unopposed.

SUMMARY OF EVIDENCE

Reston's application includes information regarding, among other things, its corporate status, facilities, proposed tariff, finances, and regulatory compliance record.

Reston proposes to commence operations with nine vehicles with seating capacities ranging from 6 to 15 persons each. Reston's proposed tariff contains hourly rates with minimum charges.

Reston's president certifies on its behalf that applicant has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to transportation of passengers for hire.

Applicant filed a balance sheet as of June 30, 1993, showing assets of \$229,058; liabilities of \$155,484; and equity of \$73,574. Applicant's combined statements of income and expense for the eighteen months ended June 30, 1993, show total revenue of \$823,154; expenses of \$805,169; and net income of \$17,985. Applicant's projected operating statement for the first twelve months of WMATC operations shows revenue of \$645,000; expenses of \$509,196; and net income of \$135,804.

It is certified that neither Reston nor any person controlling, controlled by, or under common control with Reston has any control relationship with a carrier other than Reston.

## DISCUSSION AND CONCLUSION

This case is governed by the Compact, Title II, Article XI, Section 7(a), which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant . . . if it finds that --

(i) the applicant is fit, willing, and able to perform [the] transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and

(ii) that the transportation is consistent with the public interest.

The burden is on applicant to establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>1</sup>

Applicant's balance sheet shows few liquid assets. Its current income statements, however, demonstrate it is earning a profit and generating positive cash flow. Applicant's vehicles have all passed safety inspection in Virginia. We find applicant financially and operationally fit.

Evaluation of Reston's compliance fitness requires a more searching inquiry. The Commission recently found Reston in violation of the Compact.<sup>2</sup> When an applicant has a record of violations the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.<sup>3</sup>

Reston conducted operations in our jurisdiction without a certificate of authority knowingly and willfully on forty occasions.<sup>4</sup> Few violations are more serious. We find no mitigating circumstances. We regard the violations as borderline flagrant and persistent. On the other hand, Reston cooperated completely in the earlier proceeding and promptly paid the civil forfeiture assessed therein. Reston has assigned its WMATC operations to a certificated carrier pending the outcome of this proceeding. The filing of an application demonstrates Reston's willingness to abide by the Compact and regulations thereunder in the future, as Reston has sworn. The record, therefore, supports a finding of prospective compliance fitness.

---

<sup>1</sup> In re Mustang Tours, Inc., AP-93-30, Order No. 4224 (Dec. 15, 1993).

<sup>2</sup> DD Enters., t/a Beltway Transp. Serv. v. Reston Limo. Serv., No. FC-93-01, Order No. 4226 (Dec. 20, 1993).

<sup>3</sup> Order No. 4224 at 3.

<sup>4</sup> Order No. 4226 at 2-3.

Based on the evidence in this record, the Commission finds Reston to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements. The Commission further finds that the proposed transportation is consistent with the public interest.

THEREFORE, IT IS ORDERED:

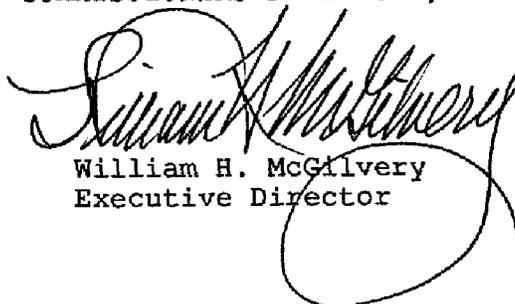
1. That Reston Limousine & Travel Service, Inc., trading as Reston Limousine, 441-A Carlisle Drive, Herndon, VA 22070, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order, authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

2. That Reston Limousine & Travel Service, Inc., trading as Reston Limousine, is hereby directed to file the following documents with the Commission: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 241 is hereby assigned.

3. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 241 shall be issued to Reston Limousine & Travel Service, Inc., trading as Reston Limousine.

4. That unless Reston Limousine & Travel Service, Inc., trading as Reston Limousine, complies with the requirements of this order within 30 days from the date of its issuance, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS DAVENPORT, SCHIFTER, AND SHANNON:

  
William H. McGilvery  
Executive Director