

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4765

IN THE MATTER OF:

Served February 13, 1996

CAPITAL TOURS & TRANSPORTATION,)
INC., Trading as SUBURBAN AIRPORT)
SHUTTLE, Suspension and)
Investigation of Revocation of)
Certificate No. 224)

Case No. MP-95-88

By Order No. 4752, served January 29, 1996, the Commission revoked Certificate of Authority No. 224 pursuant to Article XI, Section 10(c), of the Compact for respondent's willful failure to maintain on file with the Commission an effective certificate of insurance. On January 31, 1996, respondent filed an application for reconsideration. Under Article XIII, Section 4(a), of the Compact, an application for reconsideration must state specifically the errors claimed as grounds for reconsideration. Respondent claims as error the Commission's finding that respondent acted willfully.

The record shows that respondent's certificate of insurance was cancelled effective December 20, 1995. Respondent protested the cancellation to the Maryland Insurance Administration, which granted respondent until January 20, 1996, to obtain replacement coverage from another insurer. Respondent, however, never filed a replacement certificate of insurance bearing the January 20 expiration date as required by Regulation No. 58-12. Respondent claims the existing insurer refused to execute a new certificate.

To make matters worse, respondent's new certificate of insurance was not filed until February 1, 1996, even though it is effective January 20, 1996. Respondent says it did not file sooner because its insurance agent had said the new certificate was timely filed, but respondent does not say when this filing purportedly occurred or when respondent acquired this alleged knowledge. Moreover, a simple check with the Commission on or about January 20 would have confirmed otherwise.

We affirm our finding of willfulness in Order No. 4752. There is nothing in the record to establish that respondent could not have switched insurance companies as of December 20, 1995. In fact, the new insurance certificate is some evidence to the contrary. Respondent was under no compulsion to use any or all of the thirty-day grace period granted by the Maryland Insurance Administration. In any event, the term "willful" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard,¹ and, at the very least, respondent was careless for not checking with

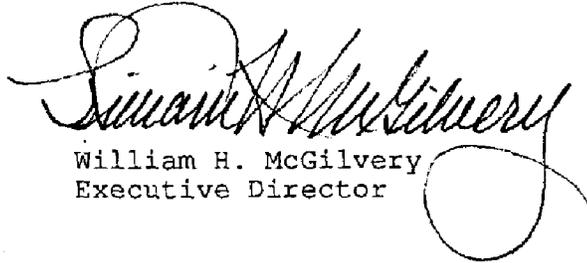
¹ DD Enters., Inc., t/a Beltway Transp. Serv., v. Reston Limo. Serv., No. FC-93-01, Order No. 4226 (Dec. 20, 1993); O. Oluokun, Inc., t/a Montgomery County Limo, No. MP-93-43, Order No. 4225 (Dec. 16, 1993).

the Commission on or about January 20 to ascertain whether the new certificate had been timely filed. Thus, the Commission's revocation order, having been issued on January 29, was not in error.

On the other hand, considering that respondent has filed a new certificate of insurance and that the record shows respondent has maintained continuous insurance coverage since December 20, 1995, we reopen this proceeding on our own initiative and reinstate Certificate of Authority No. 224.²

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER AND LIGON:



William H. McGilvery
Executive Director

² See In re Airport Baggage Carriers, Inc., No. MP-95-69, Order No. 4659 (Sept. 6, 1995) (reconsideration of revocation denied because no error, but proceeding reopened and authority reinstated upon filing of certificate of insurance); In re Perkins Ambulance & Wheelchair Serv., Inc., No. MP-91-25, Order No. 3833 (Oct. 21, 1991) (same); In re Gaithersburg Limo Serv., Inc., No. MP-86-33, Order No. 2982 (Mar. 2, 1987) (same).