

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4770

IN THE MATTER OF:

Served February 26, 1996

SHIRLEY L. NELSON, Trading as )  
L&N TRANSPORTATION -- )  
Investigation of Violation of )  
the Compact, Article XI, Section )  
14, and Regulations Nos. 55, 61, )  
62 and 68, and Circumvention of )  
the Compact, Article XI, Section )  
7(f), and Regulation No. 58 )

Case No. MP-96-16

On January 3, 1996, the Commission received a letter from the District of Columbia Department of Human Services, Commission on Health Care Finance (CHCF), alleging that on that same day, a CHCF inspector observed respondent transporting Medicaid recipients in a van which did not display respondent's certificate number as required by Commission Regulation No. 61. A check of Commission records shows that respondent did not file rates for service under the DC Medicaid program until January 16, 1996, effective January 24. Under Article XI, Section 14, of the Compact and Regulation No. 55, respondent may not charge or collect a fare unless it conforms to rates in a tariff filed with the Commission.

On January 4, 1996, the Commission directed respondent to file an equipment list and produce all vehicles on the list for inspection by Commission staff no later than January 19. Respondent replied that she operated and/or owned a minibus and five vans, but respondent produced only one of the six for inspection -- the van identified in CHCF's January 3 letter. That van failed inspection by staff because respondent's name and certificate number were not permanently affixed on both sides, as required by Regulation No. 61. Respondent has not returned the van for a follow-up inspection.

Accompanying respondent's equipment list are five vehicle registration cards and a lease. None agrees with the address on respondent's certificate of authority, and the lease is not signed by respondent. Regulation No. 68 requires each carrier to maintain on file with the Commission the street address of the carrier's principal place of business. Regulation No. 62 requires each carrier to file a properly executed lease with the Commission before operating a leased vehicle.

As of January 4, 1996, only one of respondent's vehicles, the minibus, was identified in the policy underlying respondent's \$5 million certificate of insurance. Three of the five vans are identified in a separate \$1.5 million policy, issued by another agent, as evidenced by a WMATC certificate of insurance signed September 20, 1995, effective September 26, 1995, and received by the Commission January 22, 1996. A partially erased, handwritten note at the top of the front page reads, "Do not send unless told by Ms. Nelson." Apparently, when respondent was informed by Commission staff that only

one vehicle was identified in the \$5 million policy she instructed the second agent to file the \$1.5 million certificate. The \$1.5 million certificate is invalid because it is issued in the wrong name and in the wrong amount.

Under Regulation No. 58, promulgated pursuant to Article XI, Section 7(f) of the Compact, respondent must insure all of its vehicles for \$5 million -- even the vans seating less than 16 persons, including the driver -- because respondent has a certificate of authority unrestricted as to vehicle size.<sup>1</sup> Respondent's \$5 million certificate of insurance satisfies that requirement by amending the underlying policy so that any vehicle respondent operates under her certificate of authority is covered whether or not identified in the policy. The Commission is concerned, however, that considering respondent's failure to display her WMATC number on the outside of her vans, a person injured by one of respondent's vans and informed of the \$1.5 million van policy might be misled into believing the \$1.5 million policy defines the upper limit of respondent's coverage. Regulation No. 58 is designed and enforced to prevent this from happening.<sup>2</sup>

Article XIII, Section 1(c), of the Compact provides that the Commission may investigate a carrier to determine whether that carrier has violated the Compact or a regulation or order thereunder. Article XIII, Section 6(f), provides that a person who knowingly and willfully violates a provision of the Compact shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation and that each day of the violation constitutes a separate violation.

Respondent shall be directed to show cause why a civil forfeiture should not be assessed for respondent's knowing and willful violation of the Compact, Article XI, Sections 7(f) and 14, and Regulations Nos. 55, 58, 61, 62 and 68.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondent's operations in the Washington Metropolitan Area Transit District is hereby initiated under Article XIII, Section 1, of the Compact.

2. That respondent shall have thirty days from the date of this order to show cause why civil forfeitures should not be assessed for operating without a proper tariff, lease and vehicle identification.

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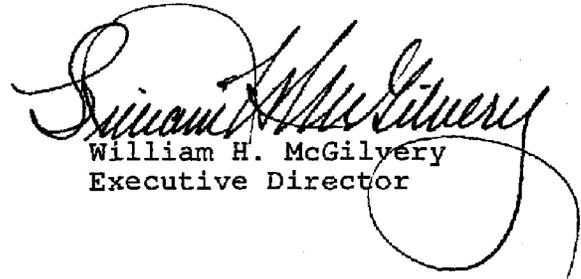
<sup>1</sup> In re United Mgmt. Corp., No. MP-92-31, Order No. 3995 (Sept. 3, 1992).

<sup>2</sup> See In re Appendix to Rules of Prac. & Proc. & Regs., Cert. of Ins., No. MP-93-41, Order No. 4203 (Nov. 15, 1993) (certificate of insurance amended to provide increased certainty as to scope of coverage).

3. That respondent shall have thirty days from the date of this order to show cause why respondent should not be ordered to terminate the \$1.5 million insurance policy and report all vehicles to the \$5 million insurer.

4. That respondent may file within 15 days from the date of this order a request for oral hearing, provided that said request describes the evidence to be adduced at such hearing and explains the reasons why the evidence could not be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER AND LIGON:



William H. McGilvery  
Executive Director