

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4849

IN THE MATTER OF:

Served May 17, 1996

SAFE TRANSPORTATION, INC. --)
Investigation of Violation of the)
Compact, Article XI, Section 5(a),)
and Regulation No. 62)

Case No. MP-96-15

This investigation was initiated on February 26, 1996, in Order No. 4769, and respondent was directed to show cause within thirty days why a civil forfeiture should not be assessed against respondent for operating vehicles with expired vehicle inspection stickers and without the necessary lease or leases on file with the Commission. Respondent filed no response.

The record in this case reveals the following. On October 24, 1995, respondent was observed transporting passengers in a van with an expired safety inspection sticker. On November 29, 1995, the Commission directed respondent to produce its vehicles for inspection by Commission staff no later than December 15, 1995. Respondent presented four vehicles for inspection by staff on January 23, 1996. Two passed, and two failed -- one had an expired safety inspection sticker and one had no safety inspection sticker at all. Respondent presented three other vehicles for inspection by staff on January 31, 1996. One passed. The other two had expired safety inspection stickers. Respondent presented six of the eight for inspection by staff on March 20, 1996 -- including three which had previously passed inspection, two which had not and one which was being presented for the first time. All six passed.

In the meantime, respondent filed a lease covering all eight of its vehicles on March 11, 1996. Prior to March 11, only one of respondent's eight vans was covered by a lease on file with the Commission.

Article XI, Section 5(a) of the Compact states that each authorized carrier shall provide safe and adequate transportation service, equipment, and facilities. We hold that operation of a vehicle with an expired, invalid or missing safety inspection sticker violates this section of the Compact. Such a vehicle is presumptively unsafe and inadequate.

Commission Regulation No. 62-02 provides that a carrier operating a leased vehicle under a WMATC certificate must first file the lease with this Commission. Seven of respondent's vehicles were not covered by a lease until March 11, 1996, including the van observed on October 24, the four vans presented for inspection on January 23, and two of the three vans presented for inspection on January 31.

Article XIII, Section 6(f), of the Compact states 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. "Knowingly" means with perception of the underlying facts, not that such facts establish a violation.¹ "Willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard.² Employee negligence is no defense.³

We will assess a civil forfeiture of \$500 per day for the safety violations and \$100 per day for the lease violations. The record shows a minimum of three days of safety violations and three days of lease violations. The total civil forfeiture assessed is, therefore, \$1,800. We will suspend all but \$600 in recognition of respondent bringing at least six of its eight vehicles into compliance. Failure to timely pay the \$600 shall result in automatic reinstatement of the full assessment of \$1,800.

Although it is reasonable to infer from the record that respondent is guilty of committing more than just six violations, the precise number is not determinable from the evidence before us. Rather than ordering further discovery and delaying prosecution of a carrier which still may not be in full compliance with safety requirements, we will place respondent on a tight timeline for bringing the remainder of its fleet up to the appropriate standards.

Respondent will be directed to cease operating the two vehicles which have not passed inspection by staff. The two vehicles are identified as follows:

1987 Dodge, VIN 2B4HB11T7HK244182, Tag No. B35486
1987 Dodge, VIN 2B4HB21T5HK287201, Tag No. B33754

These are the two which failed inspection by staff on January 31, 1996, for displaying expired safety inspection stickers. Respondent may recommence operations in those vehicles once they pass inspection by staff. In the event these two vehicles do not pass inspection by staff within fourteen days from the date this order is issued, respondent's Certificate of Authority No. 210 shall stand suspended and subject to revocation.

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).

² Orders Nos. 4226, 4225.

³ Orders Nos. 4226, 4225.

THEREFORE, IT IS ORDERED:

1. That respondent is hereby directed to cease and desist from transporting passengers for hire between points in the Metropolitan District in the two vehicles identified above, unless and until the Commission's staff has issued a written determination that said vehicles have passed inspection.

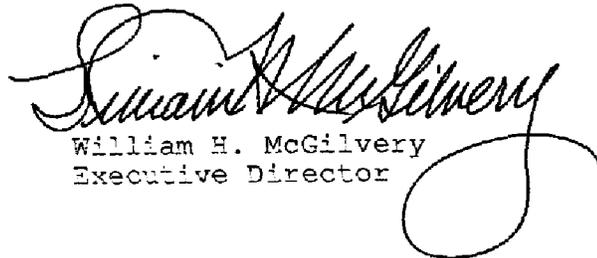
2. That respondent is hereby directed to present said vehicles for inspection by Commission staff on or before May 31, 1996.

3. That the Commission hereby assesses a net civil forfeiture against respondent in the amount of \$600, for knowing and willful violation of the Compact and Commission Regulations, and that respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of six hundred dollars (\$600).

4. That upon the failure of said vehicles to timely pass inspection by staff, or respondent's failure to timely pay the assessed forfeiture, staff shall issue an order suspending Certificate of Authority No. 210 for willful violation of the Compact and this order.

5. That upon the suspension of Certificate of Authority No. 210 in accordance with the preceding paragraph, respondent shall have thirty days to show cause why Certificate of Authority No. 210 shall not be revoked.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER AND LIGON:


William H. McGilvery
Executive Director