

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5178

IN THE MATTER OF:

Served August 5, 1997

Investigation of Unauthorized )  
Operations of AFFORDABLE AIRPORT ) Case No. MP-97-76  
CHARTER, INC., and Affiliation )  
with BACH VU, Trading as )  
AFFORDABLE AIRPORT CHARTER, )  
WMATC No. 309 )

On January 30, 1997, the Commission received an application to transfer Certificate of Authority No. 309 from Bach Vu, a sole proprietor trading as Affordable Airport Charter, to Affordable Airport Charter, Inc., ("AACI"). Because of several omissions, the application was unacceptable for filing and returned to Mr. Rufus Ayodotun Akintimehin, who was identified in the application as AACI's president and the person to whom inquiries regarding the application should be sent. The letter returning the application identified the omissions causing rejection and advised applicants that the application could be resubmitted once the necessary corrections had been made. To date, no corrected application has been refiled.

Order No. 5062, issued on April 23, 1997, initiated an investigation into the failure of Bach Vu to file his annual report for 1996 and directed Bach Vu to file his annual report within thirty days. On May 13, 1997, the Commission received an annual report for "Affordable Airport Charter, Inc.," "WMATC Carrier No. 309." The cover letter similarly identifies the filer as "Affordable Airport Charter Inc." Both the report and the letter identify the filer's address as "18725 Mooney Drive, Gaithersburg, MD 20879," which according to Commission records is Bach Vu's current business address. In response to item no. 4, concerning changes in ownership during 1996, the report states that the "business is now incorporated," that "new ownership" and a "transfer of certificate" is "in progress." The report is signed by Mr. Akintimehin. We rejected it on May 14, 1997, in Order No. 5081, on the ground that it was not acceptable as the report of Bach Vu.

On June 13, 1997, Bach Vu filed a document entitled "Power of Attorney," authorizing Mr. Akintimehin to file an annual report in Bach Vu's name for 1996. Mr. Akintimehin filed a 1996 report in Bach Vu's name on June 18, 1997. Mr. Akintimehin is listed in the report as Bach Vu's operations manager. No changes in ownership are noted.

Mr. Akintimehin's dual status as Bach Vu's operations manager and AACI's president, together with the fact that both entities share the same address, raises the issue of whether AACI may be transporting passengers for hire between points in the Metropolitan District without WMATC authority -- either in place of or in conjunction with Bach Vu. It further appears that AACI may have begun performing such transportation in 1996.

Under Title II of the Compact, Article XIII, Section 1(c), the Commission may investigate a carrier on its own motion to determine whether a carrier has violated the Compact. Section 1(e) provides:

For the purpose of an investigation or other proceeding under this Act, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.

Article XII, Section 1(b) & (c), contains a parallel provision directed at WMATC carriers and carriers under common control with WMATC carriers:

The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes. This section shall apply to any person controlling, controlled by, or under common control with a carrier subject to this Act, whether or not that person otherwise is subject to this Act.

We shall direct respondents to produce any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, in their possession, custody or control relating to transportation of passengers for hire between points in the Metropolitan District during the period beginning January 1, 1996, and ending on the date of this order.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondents' operations and affiliation in the Washington Metropolitan Area Transit District is hereby instituted under Article XIII, Section 1, of the Compact.

2. That AACI is hereby directed to refrain from, and/or cease and desist from, transporting passengers for hire between points in the Metropolitan District unless and until otherwise ordered by the Commission.

3. That respondents, Bach Vu and AACI, are hereby directed to produce, within thirty days of the date of this order, any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within respondents' individual or joint possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning January 1, 1996, and ending on the date of this order, including, but not limited to:

a. any and all correspondence to or from 18725 Mooney Drive, Gaithersburg, MD 20879;

b. any and all customer invoices;

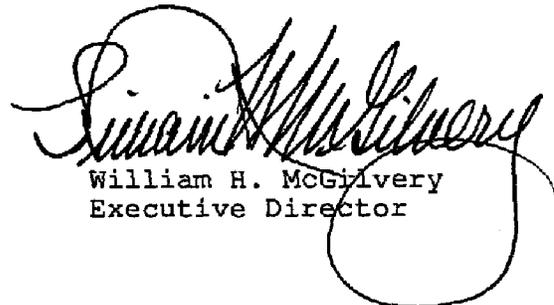
- c. any and all invoices from other carriers;
- d. any and all bank records;
- e. any and all tax returns;
- f. any and all vehicle insurance records;
- g. any and all vehicle registration cards and safety inspection certificates for (i) the vehicles listed in Bach Vu's annual report for 1996, and (ii) any other vehicles stored at, or controlled from, or dispatched from 18725 Mooney Drive, Gaithersburg, MD 20879.

4. That AACI is hereby directed to file any and all documents relating to the incorporation of AACI, including, but not limited to, a current list of officers, directors and shareholders.

5. That Certificate of Authority No. 309 shall be automatically suspended upon respondent's failure to timely comply with this order.

6. That in the event Certificate of Authority No. 309 is suspended pursuant to the preceding paragraph, Bach Vu shall have thirty days thereafter to show cause why Certificate of Authority No. 309 should not be revoked for failure to comply with the requirements of this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery  
Executive Director

