

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5342

IN THE MATTER OF:

Served May 27, 1998

Investigation of Unauthorized) Case No. MP-98-16
Change of Control, Directed to)
WILLIAM E. GILLISON, Trading as)
QUIANA TOURS, WMATC No. 290, and)
QUIANA TOURS, INC.)

This investigation was initiated on April 7, 1998, in Order No. 5308, pursuant to Article XIII, Section 1(c), of the Compact, which authorizes the Commission to investigate violations of the Compact. Section 1(e) provides that if the Commission finds a person has violated the Compact, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.

A person who knowingly and willfully violates a provision of the Compact is subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for each subsequent violation.¹ The Commission, after notice and hearing, may revoke a certificate of authority for willful failure to comply with a provision of the Compact.² The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.³ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, the terms describe conduct marked by careless disregard whether or not one has the right so to act.⁴

The Compact governs the transfer of a WMATC carrier's assets, operations or certificate of authority to another carrier.⁵ A WMATC

¹ Compact, tit. II, art. XIII, § 6(f).

² Compact, tit. II, art. XI, § 10(c).

³ In re Affordable Airport Charter, Inc., & Bach Vu, t/a Affordable Airport Charter, No. MP-97-76, Order No. 5276 (Feb. 17, 1998); In re Great American Tours, Inc., & The Airport Connection, Inc. II, & Airport Baggage Carriers, Inc., No. MP-96-54, Order No. 5065 (Apr. 24, 1997).

⁴ Order No. 5276; Order No. 5065.

⁵ Compact, tit. II, art. XI, § 11, & art. XII, § 3.

carrier is charged with the knowledge that such actions require prior Commission approval.⁶

Order No. 5308 noted that an annual report filed in the name of "Quiana Tours, Inc.," and mailed in an envelope naming the sender as "Quiana Tours, Inc.," indicates that respondent Gillison has transferred his WMATC operations to the corporation without prior Commission approval.

Order No. 5308 gave respondents thirty days to file an appropriate and acceptable application or show cause why a civil forfeiture should not be assessed for knowing and willful violation of the Compact. Respondents did not comply. Their failure to respond adds weight to the charges.⁷

Accordingly, we will assess a civil forfeiture of five hundred dollars and order respondents to cease all operations in the Metropolitan District and show cause why Certificate No. 290 should not be revoked.

THEREFORE, IT IS ORDERED:

1. That respondents are hereby directed to cease and desist all operations in the Metropolitan District.

2. That respondents shall pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashiers check, the sum of five hundred dollars (\$500), for knowing and willful violation of the Compact.

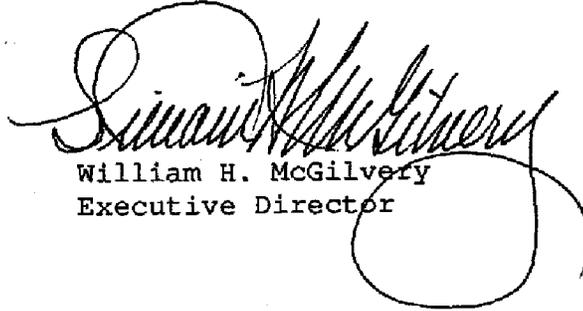
3. That respondents shall have thirty days from the date of this order to show cause why Certificate of Authority No. 290 should not be revoked for willful violation of the Compact.

⁶ Order No. 5065; In re All-Star Presidential, LLC, & Presidential Coach Co., & Presidential Limo. Serv., Inc., No. MP-95-82, Order No. 4961 (Oct. 29, 1996).

⁷ See In re ANA Hallo Tours (USA), Inc., No. AP-91-26, Order No. 3902 (Mar. 17, 1992) (finder of fact may draw negative inference from failure to respond).

4. That respondents may file within 15 days from the date of this order a request for oral hearing showing good cause to require such a hearing, including a description of the evidence to be adduced and an explanation of why such evidence cannot be adduced without an oral hearing.

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



William H. McGilvery
Executive Director