

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6622

IN THE MATTER OF:

Served April 23, 2002

Application of EMAD MOHAMED HASSAN,)
Trading as ASALLA TRANSPORTATIONS,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2002-02

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If an applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant bears the burden of establishing financial fitness, operational fitness, and regulatory compliance fitness.¹ To establish financial fitness, an applicant must show the present ability to sustain operations during the first year under WMATC authority.² To establish operational fitness, an applicant must demonstrate the willingness and ability to provide safe and adequate service.³ To establish regulatory compliance fitness, an applicant must become familiar with and evidence a willingness to comply with the Compact and Commission regulations.⁴

In this case, applicant has demonstrated neither compliance fitness nor financial fitness. We do not reach the issue of applicant's operational fitness.

Applicant's first attempt at filing an application was rejected on November 26, 2001, for numerous errors. Applicant's second attempt at filing an application was rejected on December 17, 2001, for several errors. In addition, the check submitted with the second

¹ In re Salwa Seedahmed, t/a Control Transp., No. AP-98-28, Order No. 5434 (Oct. 19, 1998); Marylou's Janitorial Serv., Inc., t/a Marylou's Transp. Serv., No. AP-96-23, Order No. 4874 (June 20, 1996).

² In re Adventures By Dawn L.L.C., No. AP-00-89, Order No. 6087 (Jan. 16, 2001).

³ Id.

⁴ Id.

attempt in payment of the \$100 application fee was returned unpaid by applicant's bank. That check had still not been honored by applicant when he filed for the third time. We accepted the third filing after applicant replaced the dishonored check with a money order.

The first order in this proceeding directed applicant to publish notice in a newspaper and file an affidavit as proof of publication. Applicant filed the notice two days late. In the meantime, Commission staff attempted to contact applicant at the telephone number listed in the application, but the call would not go through despite repeated attempts.

Staff subsequently wrote to applicant to reestablish contact. Applicant's reply states that applicant's address and telephone number have changed. But for staff's initiative, none of this may have come to light.

Applicant's principal place of business is now outside the Metropolitan District, but applicant has not designated an agent inside the Metropolitan District for service of process as required by the application form.

Repeated failures to furnish the information necessary to process an application for operating authority establish a lack of compliance fitness.⁵ The record in this case is replete with such failures. We cannot say on this record that applicant has demonstrated familiarity with and evidenced a willingness to comply with the Compact and Commission regulations.

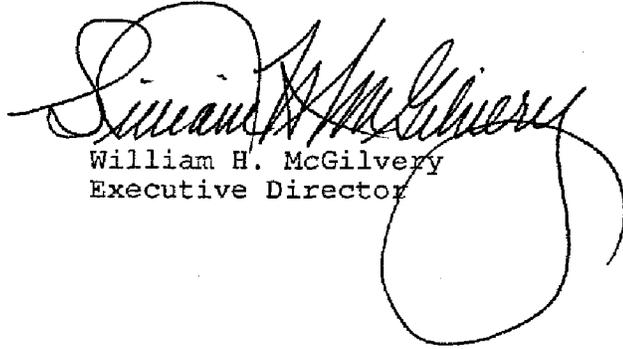
As for applicant's evidence of financial fitness, applicant's statement of net worth makes a weak showing with only \$5,125 in cash, one vehicle and no insurance.⁶ The probative value of this statement, which is dated July 31, 2001, is substantially diminished by the passage of some eight months. Applicant's recently dishonored \$100 check is more probative of applicant's cash position at this time.

⁵ See In re Highview Bus Serv., Inc. & Courtesy Bus Rental Sys., Inc., No. AP-78-47, Order No. 1988 at 9 (Apr. 25, 1979) (lack of compliance fitness demonstrated by applicant's failure to provide material and relevant information); In re Suburban Transit Co., No. 335, Order No. 1632 at 7 (Dec. 1, 1976) (applicant not fit as to compliance because of numerous failures to submit required documents during proceeding).

⁶ See In re Regional Nursing Servs. L.P., No. AP-01-14, Order No. 6231 (May 22, 2001) (application denied for insufficient initial working capital: \$2,649 cash, 3 vans, no insurance); In re Hall "N" All Co., No. AP-00-33, Order No. 5903 (June 7, 2000) (same: \$5,000 cash, no vehicle, no insurance); Order No. 5434 (same: \$3,000 working capital, no vehicle, some insurance); Order No. 4874 (same: \$5,000 cash, one vehicle, no insurance).

THEREFORE, IT IS ORDERED that the application of Emad Mohamed Hassan, trading as Asalla Transportations, for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, LIGON, AND MILLER;



William H. McGilvery
Executive Director