

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6710

IN THE MATTER OF:

Served June 21, 2002

ZOHERY TOURS INTERNATIONAL, INC., )  
WMATC No. 362, Investigation of )  
Violation of Seating Capacity )  
Restriction and Commission )  
Regulations Governing Vehicle )  
Markings and Leases and Advertising )

Case No. MP-2002-46

This investigation is being initiated to determine whether Zohery Tours International, Inc., WMATC No. 362, knowingly and willfully violated the seating capacity restriction in Certificate No. 362, the Commission's vehicle marking and leasing regulations<sup>1</sup> and the Commission's advertising regulation<sup>2</sup>.

Certificate of Authority No. 362, restricts respondent's operations to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver. On April 18, 2002, Commission staff obtained a vehicle list from respondent's insurance broker that included two motorcoaches seating well in excess of the 15-person limit.

The list was obtained in the course of an informal investigation of respondent's vehicles. The investigation revealed that respondent operated six to seven vehicles during some or all of 2001 but only listed three in its 2001 annual report. Staff inspected the three vehicles listed in the report and discovered that they were not properly marked as required by Commission Regulation No. 61 and that respondent had failed to file with the Commission copies of applicable leases, in violation of Regulation No. 62. Respondent has yet to correct the violations and return its vehicles for re-inspection, as directed by staff, and has yet to produce the other vehicles for inspection, at all.

On June 11, 2002, staff discovered that respondent's website does not inform the public that respondent is regulated by this Commission and displays rates and services that are not included in respondent's tariff on file with the Commission, in violation of Commission Regulation No. 63.

The Commission may investigate whether a person has violated the Compact and for the purpose of an investigation "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

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<sup>1</sup> Commission Regulation Nos. 61 & 62.

<sup>2</sup> Commission Regulation No. 63.

evidence which the Commission considers relevant to the inquiry."<sup>3</sup> In addition, the Commission "shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes."<sup>4</sup>

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.<sup>5</sup> 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.<sup>6</sup> Each day of the violation counts as a separate violation.<sup>7</sup>

We shall direct respondent to produce any and all records and documents in its possession, custody or control relating to transportation of passengers for hire between points in the Metropolitan District during the period beginning July 1, 2001, and ending on the date of this order. We also shall direct respondent to bring its operations into compliance with Commission regulations and produce its revenue vehicles for inspection.

THEREFORE, IT IS ORDERED:

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

2. That respondent is hereby directed to refrain from, and/or cease and desist from, transporting passengers for hire between points in the Metropolitan District in vehicles seating more than 15 persons, including the driver.

3. That respondent is hereby directed to bring its operations into compliance with Commission Regulations Nos. 61, 62, and 63.

4. That respondent is hereby directed to produce, within thirty days from 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 respondent's possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning July 1, 2001, and ending on the date of this order, including, but not limited to any and all:

- a. customer invoices;
- b. invoices from other carriers;
- c. bank records;

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<sup>3</sup> Compact, tit. II, art. XIII, § 1(c), (e).

<sup>4</sup> Compact, tit. II, art. XII, § 1 (b).

<sup>5</sup> Compact, tit. II, art. XIII, § 1(d).

<sup>6</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>7</sup> Compact, tit. II, art. XIII, § 6(f).

- d. tax returns;
- e. insurance documents;
- f. USDOT Forms MCS-150; and
- g. advertising brochures.

5. That respondent is hereby directed to produce all revenue vehicles for inspection by Commission staff within thirty days from the date of this order.

6. That Certificate of Authority No. 362 shall be automatically suspended upon respondent's failure to timely comply with this order.

7. That in the event Certificate of Authority No. 362 is suspended pursuant to the preceding paragraph, respondent shall have thirty days thereafter to show cause why Certificate of Authority No. 362 should not be revoked.

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



William H. McGilveray  
Executive Director