

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7119

IN THE MATTER OF:

Served April 8, 2003

VOCA CORPORATION OF WASHINGTON, )  
D.C., WMATC No. 342, )  
Investigation of Violation of )  
Regulation Nos. 61 and 62 and )  
Operation of Unsafe and )  
Improperly Licensed Vehicles, )  
and Order to Show Cause )

Case No. MP-2003-30

On July 11, 2002, a Commission staff member observed one of respondent's vehicles and noticed that the vehicle was not in compliance with Commission Regulation No. 61, which in pertinent part requires each WMATC carrier to display on both sides of each revenue vehicle the vehicle owner's name and the carrier's name and WMATC number. Respondent's WMATC number was displayed but not respondent's name.

On July 17, 2002, staff sent a letter to respondent directing respondent to present its vehicles for inspection. Respondent presented five vehicles for inspection on August 6, 2002, thirteen vehicles on August 27, 2002 (including three that had failed inspection on August 6, 2002), one on October 29, 2002, and two on November 11, 2002. According to respondent's insurance company, however, as of August 9, 2002, respondent was operating 42 vehicles. Hence, after four months of inspections the Commission had yet to see almost two-thirds of respondent's fleet. Moreover, none of the vehicles presented for inspection passed.

We acknowledge the Commission has granted respondent a partial waiver of Regulation No. 61, permitting respondent to omit respondent's name from the markings placed on its revenue vehicles. The inspections staff performed, however, revealed other violations.

Several of the vehicles inspected by staff displayed no Regulation No. 61 markings at all. In addition, according to respondent, at least thirty-five of its revenue vehicles are leased, but no lease has been filed for any of those vehicles as required by Commission Regulation No. 62. One van has Maryland "M" tags, which the

Commission recognizes as private tags, not for-hire tags.<sup>1</sup> Respondent could not produce proof of current safety inspection for three of the vehicles.<sup>2</sup>

The Commission may investigate a carrier to determine whether that carrier has violated the Compact.<sup>3</sup> The Commission may require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.<sup>4</sup> The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.<sup>5</sup>

The Commission, after notice and hearing, may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.<sup>6</sup>

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement or order issued under it, or a term or condition of a certificate 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.<sup>7</sup> Each day of the violation constitutes a separate violation.<sup>8</sup>

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<sup>1</sup> In re Zohery Tours International, Inc., MP-02-46, Order No. 6911, n.11 (Nov. 18, 2002). Violations of federal, state or local laws have a bearing on a carrier's fitness. In re The Airport Connection, Inc., No. AP-84-17, Order No. 2578 (July 13, 1984); In re V.I.P. Tours, No. AP-83-10, Order No. 2504 (Dec. 2, 1983) (on reconsideration), aff'd per curiam, No. 83-2341, judgment (D.C. Cir. Jan. 25, 1985).

<sup>2</sup> Operation of a vehicle with an expired, invalid or missing safety inspection sticker violates Article XI, Section 5, of the Compact. Such a vehicle is presumptively unsafe and inadequate. In re Junior's Enterprises, Inc., No. MP-01-103, Order No. 6549 (Feb. 21, 2002); In re Safe Transp., Inc., No. MP-96-15, Order No. 4849 (May 17, 1996).

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

<sup>2</sup> Compact, tit. II, art. XIII, § 1(e).

<sup>5</sup> Compact, tit. II, art. XII, § 1(b).

<sup>6</sup> Compact, tit. II, art. XI, § 10(c).

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

<sup>8</sup> Compact, tit. II, art. XIII, § 6(f)(ii).

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>9</sup> The term "willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard whether or not one has the right so to act.<sup>10</sup> Employee negligence is no defense.<sup>11</sup>

The Commission will initiate an investigation to determine whether respondent has knowingly and willfully violated Regulation Nos. 61 and 62, whether respondent has operated unsafe vehicles in violation of Article XI, Section 5, of the Compact, and whether respondent has operated improperly licensed vehicles.

Further, considering that the Commission has issued operating authority to numerous other carriers performing identical service under the same conditions that respondent said, and which the Commission found, warranted a partial waiver of Regulation No. 61, and considering that none of those carriers has requested a similar waiver and has reported no problems with having to display their names on their revenue vehicles, respondent shall have thirty days to show cause why said partial waiver should not be rescinded.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondent's 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 immediately bring its operations into compliance with Article XI, Section 5, of the Compact, Commission Regulation Nos. 61 and 62, and local vehicle licensing laws.

3. That respondent is hereby directed to produce all revenue vehicles for inspection by Commission staff within thirty days.

4. That respondent may not operate any vehicle that fails inspection by staff unless and until such vehicle passes reinspection.

5. That respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture or suspend or revoke Certificate No. 342 for knowing and willful violations of Regulation Nos. 61 and 62 and operation of unsafe and improperly licensed vehicles.

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<sup>9</sup> In re Washington Exec. Sedan, Inc., & Global Express Limo. Serv., Inc., No. MP-02-03, Order No. 6772 (Aug. 13, 2002).

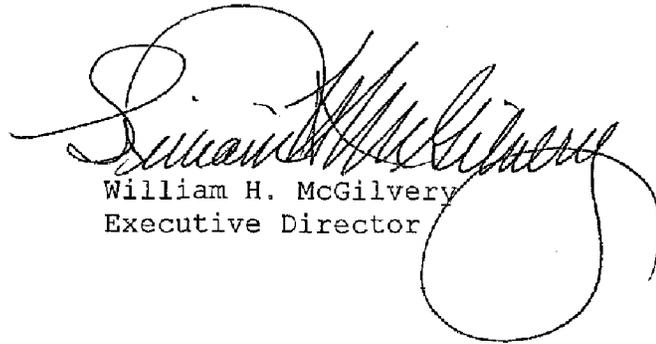
<sup>10</sup> Id.

<sup>11</sup> Id.

6. That respondent shall have thirty days to show cause why the partial waiver of Regulation No. 61 granted July 22, 1996, should not be rescinded.

7. That Certificate of Authority No. 342 shall stand suspended, and be subject to revocation without further notice, upon respondent's failure to timely comply with the requirements of this order.

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



William H. McGilvery  
Executive Director