

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7275

IN THE MATTER OF:

Served June 26, 2003

ULTIMATE HEALTH CARE SERVICES,)
INC., WMATC No. 565, and ULTIMATE)
TRANSPORTATION INC., Investigation))
of Unauthorized Transfer)

Case No. MP-2003-63

This investigation is being initiated to determine whether respondents have violated the Compact by transferring the assets and operations of Ultimate Health Care Services, Inc., and/or Certificate of Authority No. 565, to Ultimate Transportation Inc. without Commission approval.

Ultimate Health Care Services, Inc., is the owner of Certificate of Authority No. 565. The 2002 annual report for WMATC Carrier No. 565 was filed in the name of "Ultimate Transportation Inc." According to the report, "the company changed by separating from Ultimate Health Care Services Inc."

Under the Compact, a person may not transfer a certificate of authority unless the Commission approves the transfer as consistent with the public interest.¹ A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority.² A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District.³

Commission staff advised respondents to file a transfer application on or before March 25, 2003. On March 27, 2003, "Ultimate Transportation, Inc." requested additional time to gather the necessary supporting documents for filing a transfer application. As of yet, no application has been filed.

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,

¹ Compact, tit. II, art. XI, § 11(a).

² Compact, tit. II, art. XI, § 11(b).

³ Compact, tit. II, art. XII, § 3(a)(ii).

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."⁴ 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."⁵

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.⁶ 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.⁷ Each day of the violation counts as a separate violation.⁸ The Commission may suspend or revoke a certificate of authority for willful failure to comply with the Compact or Commission rule, regulation or order thereunder.⁹

We shall direct respondents to produce any and all 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 November 27, 2002,¹⁰ and ending on the date of this order. We also shall direct respondents to present their vehicles for inspection.

THEREFORE, IT IS ORDERED:

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

2. That Ultimate Transportation Inc. 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 are 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

⁴ Compact, tit. II, art. XIII, § 1(c), (e).

⁵ Compact, tit. II, art. XII, § 1 (b).

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

⁷ Compact, tit. II, art. XIII, § 6(f).

⁸ Compact, tit. II, art. XIII, § 6(f).

⁹ Compact, tit. II, art. XI, § 10(c).

¹⁰ Ultimate Transportation Inc. was incorporated on November 27, 2002.

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 November 27, 2002, and ending on the date of this order, including, but not limited to any and all:

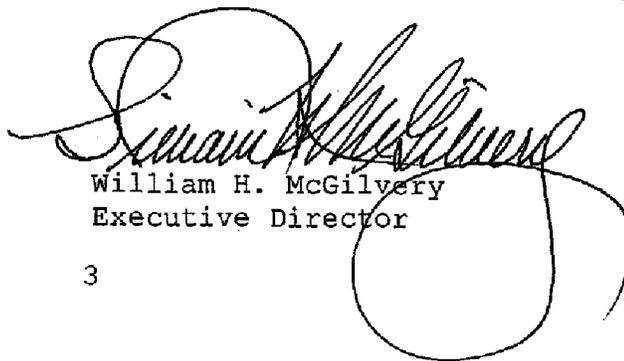
- a. customer contracts and invoices;
- b. invoices from other carriers;
- c. evidence of communications, including telephone logs, facsimile transmissions, and correspondence;
- d. calendars and itineraries;
- e. bank records;
- f. payroll records;
- g. insurance documents;
- h. advertising materials;
- i. internal corporate documents, such as articles of incorporation, bylaws, and minutes;
- j. income tax and personal property returns; and
- k. USDOT Forms MCS-150.

4. That within thirty days from the date of this order, respondents shall present their vehicles for inspection by Commission staff.

5. That Certificate of Authority No. 565 shall be automatically suspended upon either respondent's failure to timely respond to this order.

6. That in the event Certificate of Authority No. 565 is suspended pursuant to the preceding paragraph, Ultimate Health Care Services, Inc., shall have thirty days thereafter to show cause why Certificate of Authority No. 565 should not be revoked for failure to comply with the requirements of this order.

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



William H. McGilvery
Executive Director