

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7384

IN THE MATTER OF:

Served September 9, 2003

ATLANTIC AIRPORT SHUTTLE, INC.,)
WMATC No. 559, and BORJA & GARCIA)
ENTERPRISES INC., trading as)
ATLANTIC AIRPORT SHUTTLE,)
Investigation of Unauthorized)
Transfer)

Case No. MP-2003-61

This matter is before the Commission on the failure of respondents to comply with the initial order in this proceeding, Order No. 7273, served June 26, 2003.

This investigation was initiated to determine whether respondents violated the Compact by transferring the assets and operations of Atlantic Airport Shuttle, Inc., and/or Certificate of Authority No. 559, to Borja & Garcia Enterprises Inc., trading as Atlantic Airport Shuttle, without Commission approval.¹

The preliminary evidence of a transfer consisted of the following. The annual fee for Atlantic Airport Shuttle, Inc., was paid with a check drawn on the account of Borja & Garcia Enterprises Inc. Records obtained from the Taxpayer Services Division of the Maryland Department of Assessments and Taxation showed that Borja & Garcia Enterprises Inc. had registered with Maryland on April 10, 2002, under the trade name Atlantic Airport Shuttle. Maryland records also showed that the two corporations shared common owners and officers. Respondents did not reply to correspondence from Commission staff.

Order No. 7273 directed respondents to produce within thirty days 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 April 5, 2002, and ending on June 26, 2003.² The order also directed respondents to present their vehicles for inspection within thirty

¹ See Compact, tit. II, art. XI, § 11 (approval required for transfer of certificate, and only carrier named in certificate may operate under it); art. XII, § 3 (approval required for transfer of assets and operations).

² See Compact, tit. II, art. XIII, § 1(c),(e) (Commission may investigate whether a person has violated the Compact and for the purpose of an investigation may "require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry"); art. XII, § 1(b) (Commission shall have access at all times to accounts, records, and memoranda of any carrier for inspection purposes).

days.³ The order provided that failure to respond would result in suspension of Certificate No. 559 and possibly revocation.⁴

On July 18, 2003, Borja & Garcia filed a transfer application instead of the documents specified in Order No. 7273. The application did not meet the Commission's filing requirements and was rejected on July 24, 2003. Atlantic Airport Shuttle, Inc., filed no documents at all, and neither respondent has produced any vehicles.

Because respondents have failed to produce the specified documents and have failed to produce their vehicles for inspection, as commanded by Order No. 7273, Certificate No. 559 stands suspended and is subject to revocation.

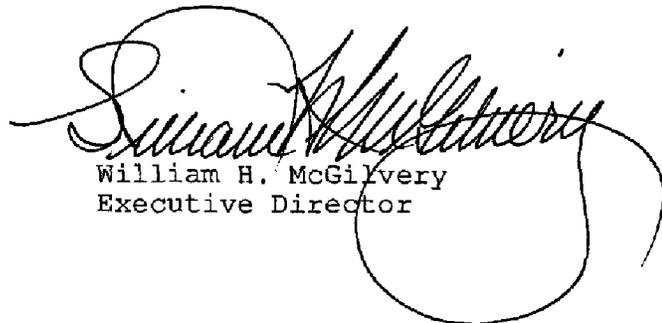
THEREFORE, IT IS ORDERED:

1. That Certificate of Authority No. 559 is suspended for the willful failure of Atlantic Airport Shuttle, Inc., to comply with Order No. 7273.

2. That Atlantic Airport Shuttle, Inc., shall have thirty days to show cause why Certificate of Authority No. 559 should not be revoked.

3. That respondents may file within 15 days from the date of this order a request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

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



William H. McGilvery
Executive Director

³ See Compact, tit. II, art. XII, § 1(b) (Commission shall have access at all times to equipment of any carrier for inspection purposes).

⁴ 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. Compact, tit. II, art. XI, § 10(c).