

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7498

IN THE MATTER OF:

Served October 29, 2003

Application of CHIMA A. EZIDINMA, )  
Trading as PEACEFUL TRANSPORTATION, )  
for a Certificate of Authority )  
-- Irregular Route Operations )

Case No. AP-2003-125

Applicant Chima A. Ezidinma, a sole proprietor trading as Peaceful Transportation, 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 for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>1</sup> Financial fitness is measured first by an applicant's averment that he possesses, or has the means to acquire, one or more acceptable vehicles and the minimum required insurance, and second by applicant's proof of ownership or lease of such vehicle(s) and proof of the minimum required insurance.<sup>2</sup> To establish regulatory compliance fitness, an applicant must become familiar with and evidence a willingness to comply with the Compact and Commission regulations.<sup>3</sup> A determination of compliance fitness is prospective in nature.<sup>4</sup> The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.<sup>5</sup>

In this case, applicant avers that he has the means to acquire one or more acceptable vehicles and the minimum required insurance.

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<sup>1</sup> In re Nevah Transports, LLC, No. AP-02-121, Order No. 7001 (Jan. 21, 2003).

<sup>2</sup> In re Boone-McNair Transp., LLC, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

<sup>3</sup> In re Jet Tours USA, Inc., No. AP-02-94, Order No. 6878 (Oct. 30, 2002).

<sup>4</sup> Order No. 7001.

<sup>5</sup> Id.

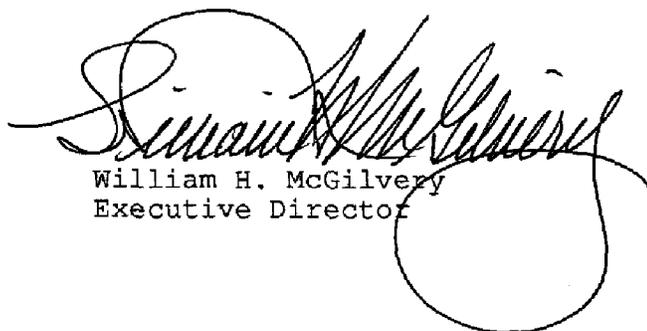
Applicant also avers that applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire. But applicant also states that he is currently in Chapter 13 bankruptcy, raising questions about his fitness for a certificate of authority at this time.

Chapter 13 of the U.S. Bankruptcy Code allows an individual in financial distress to obtain relief from creditors by agreeing to a 3-5 year repayment plan approved by the bankruptcy court.<sup>6</sup> The plan is administered by a court-appointed trustee who collects payments from the debtor and disburses funds to creditors in accordance with the plan.<sup>7</sup> The creditors may receive less than full payment under the plan.<sup>8</sup> Upon the debtor's successful completion of the plan, the court will grant the debtor a discharge of all debts provided for by the plan.<sup>9</sup>

Attached to the application as Exhibit H is an order issued by the Bankruptcy Court denying a motion filed by the trustee to dismiss applicant's case on the ground that applicant failed to attend scheduled meetings with creditors. The order provides that if applicant fails to attend another scheduled meeting, the trustee may renew the motion to dismiss. Given that the court has yet to approve a repayment plan, the record does not warrant a finding that applicant has the means to acquire one or more acceptable vehicles and the minimum required insurance. Applicant's failure to attend scheduled creditors meetings, while excused by the court, in our view casts doubt on applicant's professed willingness to comply with applicable regulatory requirements.

THEREFORE, IT IS ORDERED that the application of Chima A. Ezidinma, trading as Peaceful Transportation, for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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



William H. McGilvery  
Executive Director

<sup>6</sup> 11 U.S.C. § 1322(d).

<sup>7</sup> 11 U.S.C. §§ 1302, 1322(a), 1326.

<sup>8</sup> 11 U.S.C. § 1322(b).

<sup>9</sup> 11 U.S.C. § 1328.