

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7891

IN THE MATTER OF:

Served March 23, 2004

BABIKIR IBRAHIM ELHAG, Trading as)
"BTS" BABCARE TRANSPORT SERVICES,)
Suspension and Investigation of)
Revocation of Certificate No. 672)
Case No. MP-2004-01

This matter is before the Commission on respondent's response to Order No. 7760, served February 20, 2004.

Under the Compact, a certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.¹ Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 672 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 672 became invalid on January 6, 2004, when the \$1.5 million WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 7648, served January 7, 2004, noted the automatic suspension of Certificate No. 672 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 672, and gave respondent thirty days to replace the expired endorsement or face revocation of Certificate No. 672. Respondent submitted a \$1.5 million replacement endorsement on February 11, 2004. The effective date of the new endorsement is January 11, 2004. This means that respondent was without insurance coverage for five days, from January 6, 2004, through January 10, 2004.

Under Commission Rule No. 28, respondent is required to verify that he ceased transporting passengers for hire under Certificate No. 672 as mandated by Order No. 7648. Order No. 7760 gave respondent thirty days to furnish proof that he ceased operations as of January 7, 2004. Inasmuch as respondent's only tariff is for service rendered to clients of the District of Columbia Department of Health, Medical Assistance Administration, (DC Medicaid), such proof was to include confirmation from DC Medicaid.

¹ Compact, tit. II, art. XIII, § 7(g).

Respondent has yet to file any proof that he ceased operating as of January 7, 2004. On the contrary, when asked by the Commission whether respondent had billed for services rendered on or after the suspension date, DC Medicaid responded that respondent had "billed approximately 23 claims totaling \$3,072.50 since [the] suspension date" and that "[a]ll were denied on the 2/1 and 2/13 cycles."

Under Article XI, Section 10(c), of the Compact, the Commission, after notice and hearing, may suspend or revoke a certificate of authority for a carrier's willful failure to comply with a provision of the Compact or an order, rule or regulation of the Commission. A paper hearing is normally all the statute requires.² An oral hearing is unnecessary, in any event, if no material issue of fact is in dispute.³

Respondent admits in a written statement filed February 25, 2004, that he checked with his insurance broker on January 5, 2004, and was informed that the old policy had not been renewed and that he would have to obtain a new one. There is nothing in respondent's statement to indicate that he ceased operating at that point. Instead, he says that he "will be responsible for anything [that] happened on the period between 01-07-04 to 01-10-04." We take this as an admission that his post-suspension operations included activity during the period of no insurance.

In the past, we have revoked and refused to reinstate the certificates of authority of carriers who operated while suspended and either uninsured or underinsured.⁴ We see nothing in the record that would warrant deviating from that precedent in this case.

THEREFORE, IT IS ORDERED:

1. That Certificate of Authority No. 672 is hereby revoked.
2. That within 30 days from the date of this order respondent shall:
 - a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
 - b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and

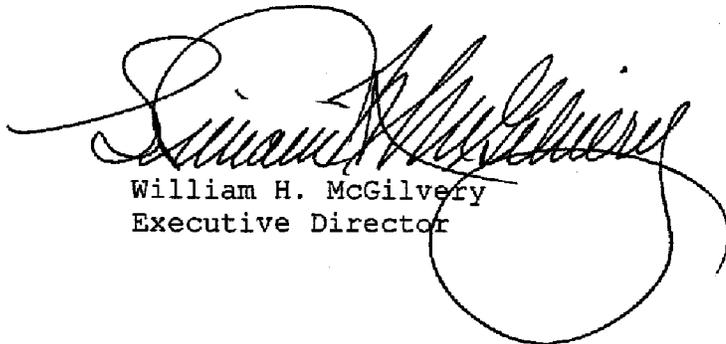
² In re Affordable Airport Charter, Inc., & Bach Vu, t/a Affordable Airport Charter, No. MP-97-76, Order No. 5400 (Aug. 31, 1998).

³ Id.

⁴ E.g., In re ACEP Group Inc., No. MP-02-128, Order No. 7069 (Mar. 4, 2003); In re Safe Haven. Inc., No. MP-02-14, Order No. 6762 (Aug. 7, 2002).

c. surrender Certificate No. 672 to the Commission.

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



William H. McGilvery
Executive Director