

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7897

IN THE MATTER OF:

Served March 25, 2004

Application of BLS LIMO GROUP,) Case No. AP-2003-160
INC., to Acquire Certificate)
No. 185 from BETHANY LIMOUSINE &)
BUSES, INC.)

By application accepted for filing November 20, 2003, applicant, BLS Limo Group, Inc., a District of Columbia corporation, seeks Commission approval to acquire Certificate No. 185 from Bethany Limousine & Buses, Inc. The application is unopposed.

Bethany Limousine & Buses, Inc., held WMATC Certificate of Authority No. 185 from March 2, 1999, to November 13, 2003, when it was revoked in Order No. 7534 for Bethany's willful failure to comply with: (1) Article XI, Section 7(g), of the Compact and Commission Regulation No. 58, governing insurance; (2) Article IV, Section 4(a), of the Compact, Regulation No. 67 and Order No. 3601, governing annual fees; and (3) Article XII, Section 1(a), of the Compact, Regulation No. 60-01 as amended by Order No. 4174, and Commission letter dated January 15, 2003, governing annual reports.¹

Under Article XI, Section 11(a), of the Compact a person may not transfer a certificate of authority unless the Commission approves the transfer as consistent with the public interest. The public interest analysis includes a determination of the transferee's regulatory compliance fitness.² A determination of compliance fitness is prospective in nature.³ The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.⁴ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁵

¹ In re Bethany Limousine & Buses, Inc., No. MP-03-102, Order No. 7534 (Nov. 13, 2003).

² In re BMG Limo. and Jet Serv., LLC, & OAO Corp., t/a BMG Limo. Serv., No. AP-02-53, Order No. 6760 (Aug. 5, 2002).

³ Id.

⁴ Id.

⁵ Id.

The initial order in this proceeding, Order No. 7630, directed applicant to file a statement fully explaining applicant's relationship with Bethany Limousine & Buses, Inc., including why the Commission received the 2001 annual report for Bethany Limousine & Buses, Inc., in an envelope with a return address of "BLS Limo Group, Inc., 2120 West Virginia Avenue, N.E., Washington, DC 20002" and why a bus marked "BLS LIMO" was identified in a recent police report as owned by Bethany Limousine & Buses, Inc. Order No. 7630, also directed applicant to file a statement explaining what commercial use applicant has made of the minibus it proposes operating under WMATC authority and has been leasing from Advantage Funding of New York Corp. since October 2002.

According to the declaration of applicant's president, Leith Aburish, Bethany Limousine & Buses, Inc., is owned in part by his father, Khalil Aburish. Leith Aburish also states that it was "simply an error on the part of Bethany Limousine & Buses, Inc." that Bethany's 2001 annual report was mailed in an envelope preprinted with applicant's name and return address. Further, Leith Aburish's declaration indicates that Bethany has used applicant's name in the past without authorization from applicant and that applicant has given Bethany notice to cease and desist. Finally, Leith Aburish states: "Since October 2002, BLS Limo Group, Inc.'s minibus was used commercially when hotels would request service for their customers to be taken to dinners and meetings."

The Commission finds it curious to say the least that Bethany would have access to applicant's stationery and more than accidental that applicant's name would be displayed on Bethany's buses. There seems to be more of a connection here than applicant cares to admit; this seems especially true when we factor in applicant's payment of Bethany's 2003 annual fee. In any event, applicant's use of the minibus to shuttle hotel guests to dinners and meetings without any operating authority from this Commission -- and, according to the application, without any authority from any other agency -- raises serious compliance issues.

The bottom line is that applicant's terse responses to the Commission's inquiries into these compliance-related matters appear calculated to reveal less rather than more. They do not rise to the level of disclosure expected of an applicant who bears the burden of production and persuasion on the issue of fitness to serve the public. We cannot say on this record that applicant has met its burden of proof.

THEREFORE, IT IS ORDERED:

1. That BLS Limo Group, 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.

2. That the application of BLS Limo Group, Inc., 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

