

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8082

IN THE MATTER OF:

Served June 9, 2004

Application of AHMED S. NASER,)
Trading as EACF TRANSPORTATION)
SERVICE, WMATC NO. 521, for)
Approval of Control of NATIONAL)
SENIOR CITIZENS' NETWORK, INC.,)
WMATC No. 761)

Case No. AP-2003-175

Application of NATIONAL SENIOR)
CITIZENS' NETWORK, INC., for)
Voluntary Termination of)
Certificate No. 761)

Case No. AP-2004-105

AHMED S. NASER, Trading as)
EACF TRANSPORTATION SERVICE,)
WMATC NO. 521, and NATIONAL)
SENIOR CITIZENS' NETWORK, INC.,)
WMATC No. 761, Investigation of)
Unauthorized Common Control)

Case No. MP-2004-113

Under Title II of the Compact, Article XII, Section 3(a)(iii), a carrier or any person controlling, controlled by, or under common control with a carrier must obtain Commission approval to acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

On October 21, 2003, Commission staff wrote to Ahmed S. Naser, trading as EACF Transportation Service, WMATC No. 521, concerning Mr. Naser's control of National Senior Citizens' Network, Inc., (NSCN), WMATC No. 761, as evidenced by the designation of Mr. Naser as director of NSCN in a tariff filed with the Commission on September 12, 2003. Staff's letter noted that NSCN's application for a certificate of authority stated that no such control relationship existed and that, therefore, Naser's control of NSCN had not been approved by the Commission. Staff advised Mr. Naser to file an application for approval of common control no later than November 7, 2003. After requesting an extension of time, Mr. Naser filed an application on December 4, 2003, requesting Commission approval of his control of NSCN.

Order No. 7655, served January 9, 2004, noted the common control application and gave Mr. Naser until January 23, 2004, to publish notice of the application in a newspaper of general

circulation in the Metropolitan District and file a statement describing the effect his control over NSCN has on his employees and the employees of NSCN. The order gave NSCN until January 23, 2004, to file a list of shareholders, directors, and officers. Proof of publication of the newspaper notice was to be filed no later than February 13, 2004.

On March 23, 2004, instead of filing the documents required by Order No. 7655, Mr. Naser filed a request to withdraw the common control application. The request to withdraw was accompanied by an application for voluntary termination of Certificate No. 761. The voluntary termination application stated that NSCN would no longer provide transportation for hire and that NSCN would return the license plates for its revenue vehicle and file proof of return with the Commission once its insurance expired at the end of April 2004. Curiously, Mr. Naser also filed an affidavit confirming that NSCN's revenue vehicle still displayed NSCN's name and WMATC No. 761.

Contrary to Mr. Naser's assertion, the WMATC Certificate of Insurance and Policy Endorsement on file for NSCN does not expire until January 14, 2005, and the Commission has yet to receive any notice of cancellation from NSCN's insurance company or any proof that the license plates for NSCN's revenue vehicle have been returned. This leaves both Mr. Naser and NSCN in noncompliance with Order No. 7655 and the Commission without any tangible evidence that NSCN has ceased operating.

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 or regulation of the Commission. The term "willful" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard whether or not one has the right so to act.¹

Mr. Naser and NSCN (respondents) shall have thirty days to show cause why Certificate Nos. 521 and 761 should not be suspended or revoked for respondents' willful failure to comply with Article XII, Section 3, and Order No. 7655.

THEREFORE, IT IS ORDERED:

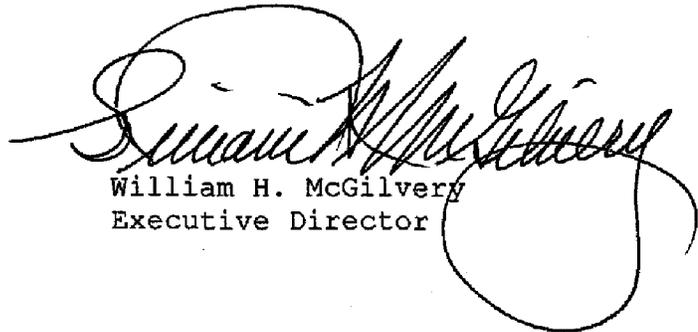
1. That an investigation of respondents is hereby initiated under Article XIII, Section 1, of the Compact.

¹ In re William E. Gillison, t/a Quiana Tours, Quiana Tours, Inc., & Baron Transp., Inc., No. MP-02-97, Order No. 7066 (Mar. 4, 2003).

2. That respondents shall have thirty days to show cause why Certificate Nos. 521 and 761 should not be suspended or revoked for respondents' willful failure to comply with Article XII, Section 3, and Order No. 7655.

3. That respondents may submit within 15 days from the date of this order a written 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