

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8275

IN THE MATTER OF:

Served September 20, 2004

Application of ZEE TRANSPORTATION )  
SERVICE INC. for a Certificate of )  
Authority -- Irregular Route )  
Operations )

Case No. AP-2004-115

Applicant 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> A determination of compliance fitness is prospective in nature.<sup>2</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>3</sup> Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.<sup>4</sup> The past conduct of an applicant's owners and officers is relevant to a determination of applicant's compliance fitness.<sup>5</sup>

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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> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

Applicant's CEO, Zainabu Kamara, previously conducted passenger carrier operations in the Metropolitan District under the trade name Nallah Transportation Express. Ms. Kamara held WMATC Certificate of Authority No. 506 from December 9, 1999, until March 12, 2004, when it was revoked for Ms. Kamara's willful failure to comply with Article XI, Section 11(b), and Article XII, Section 3(a), of the Compact, Regulation No. 61 and Order No. 7274.<sup>6</sup>

When a person controlling an applicant has a record of violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5) whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.<sup>7</sup>

Ms. Kamara's violations were serious and persistent enough to warrant revocation of Certificate No. 506 and assessment of a \$38,250 civil forfeiture.<sup>8</sup> The forfeiture was reduced to \$2,500 in consideration of the apparent lack of any profit from wrongdoing, Ms. Kamara's production of inculpatory evidence and Ms. Kamara's attempt to cure the violations by filing a transfer application shortly after the investigation was initiated.<sup>9</sup> Ms. Kamara was given thirty days to pay the civil forfeiture, remove all Commission Regulation No. 61 markings from her vehicles and file a notarized affidavit with the Commission verifying removal. Ms. Kamara timely paid the forfeiture but apparently continued operating despite having received notice of the revocation.<sup>10</sup> In addition, Ms. Kamara has yet to file an affidavit verifying removal of Regulation No. 61 markings from her vehicles, and there is nothing in the record to confirm whether she has ceased transporting passengers for hire between points in the Metropolitan District.<sup>11</sup>

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<sup>6</sup> In re Zainabu Kamara, t/a Nallah Transp. Express, & Nallah Transp. Express, Inc., No. MP-03-62, Order No. 7854 (Mar. 12, 2004), aff'd on reconsideration, Order No. 8062 (June 7, 2004).

<sup>7</sup> In re Henka Int'l, Inc., t/a Worldwide Tours & Travel, No. AP-03-184, Order No. 8035 (May 27, 2004).

<sup>8</sup> Order No. 7854.

<sup>9</sup> Id.

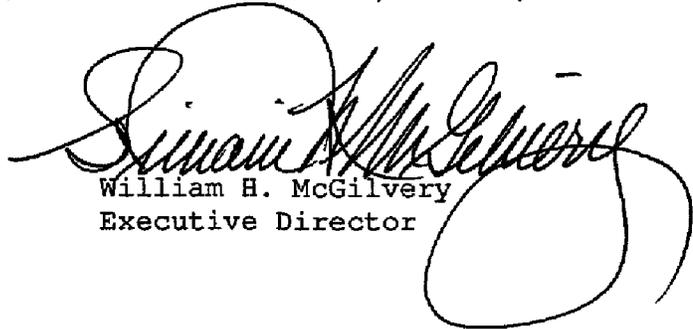
<sup>10</sup> Order No. 8062.

<sup>11</sup> See Commission Rule No. 28 (regarding compliance reports).

On this record, we cannot say that applicant has established regulatory compliance fitness.<sup>12</sup>

THEREFORE, IT IS ORDERED that the application of Zee Transportation Service Inc., for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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



William H. McGilvery  
Executive Director

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<sup>12</sup> See In re Jet Tours USA, Inc., No. AP-02-94, Order No. 6878 (Oct. 30, 2002) (application denied where applicant previously had authority revoked and failed to verify removal of Regulation No. 61 markings as required by revocation order).