

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8358

IN THE MATTER OF:

Served October 27, 2004

A.S.K. ENTERPRISES, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 361)

Case No. MP-2004-152

This matter is before the Commission on respondent's response to Order No. 8236, served August 24, 2004, which noted the suspension of Certificate No. 361 for respondent's noncompliance with the Commission's insurance requirements and directed respondent not to transport passengers for hire under Certificate No. 361, unless and until otherwise ordered by the Commission.

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. 361 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. Regulation No. 58-02 provides for automatic suspension of authority in the event a carrier fails to comply.

Certificate No. 361 became invalid and was automatically suspended on August 23, 2004, when the \$500,000 primary and \$1 million excess WMATC Insurance Endorsements on file for respondent terminated without replacement.² Respondent should have ceased operations immediately, but records furnished by the District of Columbia Department of Health, Medical Assistance Administration (DC Medicaid), indicate that respondent continued transporting twenty-three DC Medicaid passengers through August 25, 2004. Respondent contends that the invoices sent to DC Medicaid for transportation after August 22, 2004, were submitted in error. Respondent supports this contention with exculpatory affidavits from six of the passengers (or their representatives) in question. This leaves seventeen passengers who have yet to exonerate respondent.

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

² Respondent eventually submitted replacement endorsements on September 8, 2004, but the effective date on each is September 7, 2004. This means that respondent was without insurance coverage from August 23, 2004, through September 6, 2004.

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation; each day of the violation constitutes a separate violation.³ The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.⁴

Respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 361, for conducting operations under an invalid/suspended certificate of authority in violation of Article XI, Section 6(a), of the Compact and Commission Order No. 8236.

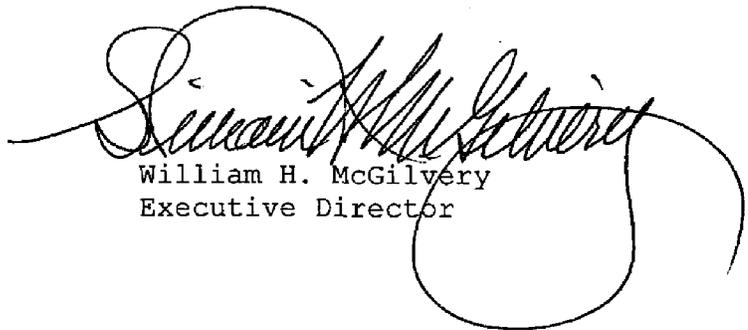
THEREFORE, IT IS ORDERED:

1. That respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Commission Order No. 8236.

2. That respondent shall have thirty days to show cause why the Commission should not suspend or revoke Certificate No. 361 for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact and Commission Order No. 8236.

3. That respondent 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 GUNS:



William H. McGilvery
Executive Director

³ Compact, tit. II, art. XIII, § 6(f).

⁴ Compact, tit. II, art. XI, § 10(c).