

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8560

IN THE MATTER OF:

Served February 16, 2005

JOHN CARMIN CADET, Trading as)
RELIABLE TRANSPORTATION,)
Suspension and Investigation of)
Revocation of Certificate No. 735) Case No. MP-2004-128

This matter is before the Commission on respondent's failure to respond to Order No. 8421, served November 17, 2004, which gave respondent thirty days to show cause why the Commission should not assess a civil forfeiture against respondent and why Certificate No. 735 should not be revoked.

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. 735 became invalid on July 1, 2004, when the \$1.5 million WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 8134 noted the automatic suspension of Certificate No. 735 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 735, and gave respondent thirty days to replace the expired endorsement or face revocation of Certificate No. 735. Respondent submitted a \$1.5 million replacement endorsement on August 12, 2004. The effective date of the new endorsement is July 20, 2004. This means that respondent was without insurance coverage for nineteen days, from July 1, 2004, through July 19, 2004.

Order No. 8259 gave respondent thirty days to furnish proof of having ceased operations as of July 1, 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).

On September 30, 2004, the Commission received a statement from DC Medicaid that, as of that date, respondent had not submitted any claims for service rendered on or after July 1, 2004, but the Commission has yet to receive any statement from respondent himself. Without respondent's sworn affirmation,² the statement from DC Medicaid leaves open the possibility that respondent merely ceased billing for service rendered to DC Medicaid clients without terminating the service itself.³

Order No. 8421 accordingly gave respondent thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and revoke Certificate No. 735, for violating, and otherwise failing to comply with, Regulation No. 58 and Order No. 8259. Respondent has yet to reply.⁴

In addition, the record shows that the WMATC Insurance Endorsement filed August 12, 2004, was cancelled effective November 28, 2004, and has not been replaced. Further, respondent has yet to pay the \$100 annual fee for 2005.⁵

Under the Compact, 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.⁶ The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply

² See Commission Rule No. 4-06 (statements of fact must be under oath); Rule No. 28 (compliance report must be under oath).

³ See In re Madison Limo. Serv., Inc., No. AP-91-39, Order No. 3891 (Feb. 24) (continuation of certificated operations at no charge held to be "transportation for hire") (citing Order No. 3810 at 6; Unique Freight Lines Co. v. White Tiger Transp. Co., 618 F. Supp. 216 (S.D.N.Y. 1985)), aff'd on reconsideration, Order No. 3914 (Mar. 25, 1992).

⁴ The record shows that Order No. 8421 was mailed to the address of record for respondent and later returned to the Commission marked "Return to sender". Either respondent is rejecting mail service from the Commission or respondent has moved without notifying the Commission of respondent's new address as required by Commission Regulation No. 68. In either event, under Commission Rule No. 5-03 service is effective when mailed. See also In re Community Alliances, Inc., No. MP-03-89, Order No. 8186 (July 23, 2004) (civil forfeiture assessed for disobeying order mailed to last known address).

⁵ See Compact, tit. II, art. IV, § 4(a); Regulation No. 67; Order No. 3601 (\$100 annual fee due on or before January 31).

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

with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.⁷

We find that respondent has failed to show cause why a forfeiture should not be assessed for violating Order No. 8259 and shall set the forfeiture at \$250.⁸

We also find that respondent has failed to show cause why Certificate No. 735 should not be revoked for failure to comply with Commission Regulation No. 58.

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Order No. 8259.

2. That respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 735 is hereby revoked for respondent's willful failure to comply with Commission Regulation No. 58; provided, that the unpaid \$100 annual fee for 2005 shall remain due and payable.

4. 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
- c. surrender Certificate No. 735 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND MILLER:



William S. Morrow, Jr.
Executive Director

⁷ Compact, tit. II, art. XI, § 10(c).

⁸ See Order No. 8186 (civil forfeiture of \$250 assessed for disobeying document production order).