

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8845

IN THE MATTER OF:

Served July 22, 2005

YAI MEDICAL TRANSPORTATION, )  
L.L.C., Suspension and )  
Investigation of Revocation of )  
Certificate No. 779 )

Case No. MP-2005-09

This matter is before the Commission on respondent's response to Order No. 8728, served May 19, 2005, which gave respondent thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 779, for violating, and otherwise failing to comply with, Article XI, Section 6(a), of the Compact and Commission Order No. 8529.

**I. BACKGROUND**

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."<sup>1</sup> A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.<sup>2</sup> Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 779 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. 779 became invalid on January 20, 2005, when the \$1.5 million WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 8529, served January 25, 2005, noted the automatic suspension of Certificate No. 779, directed respondent to cease transporting passengers for hire, and gave respondent thirty days to replace the expired endorsement or face revocation of Certificate No. 779. Respondent submitted a \$1.5 million WMATC Insurance Endorsement on March 24, 2005, with an effective date of February 23, 2005, leaving a thirty-three day gap in coverage from January 20, 2005, through February 22, 2005.

The record shows that respondent operated on January 20, 27 and 28, 2005. Respondent's owner, Nicolas Yai Weil, claims that he thought the insurance company had "fixed the problem," but no corroborating correspondence or other documentation was offered to validate this claim. On the contrary, the record indicates that Commission staff contacted Mr. Weil by telephone on January 18 and informed him that the replacement endorsement had not been filed and

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<sup>1</sup> Compact, tit. II, art. XI, § 6(a).

<sup>2</sup> Compact, tit. II, art. XI, § 7(g).

that if one was not filed the following day he would have to suspend operations.

Accordingly, Order No. 8728 gave respondent thirty days to show cause why the Commission should not assess a civil forfeiture against respondent and/or revoke Certificate No. 779.

## II. RESPONSE TO ORDER NO. 8728

In response to Order No. 8728, respondent has filed the statement of Wanda Twyman, who states that she is the "new manager of Yai Medical Transportation as of January 20, 05" and that she "was hired to help the company run smoother and to make sure the patients are transported safely to and from their [appointments]."

We do not see how this helps respondent. It in no way tends to corroborate Mr. Yai's claim that he thought the insurance company had fixed the problem, and if it is offered to fix the blame for the insurance violation and unauthorized operations on the manager it does not speak well that she is still in charge.

We find that respondent has failed to show cause why the Commission should not assess a civil forfeiture. Consequently, we shall assess a forfeiture against respondent in the amount of \$250 per day for knowingly and willfully operating without authority on January 20, 27 and 28 of this year.<sup>3</sup>

On the issue of revocation, we note that when the signatories and Congress approved the Compact, they designated noncompliance with Commission insurance requirements as the single offense that would automatically invalidate a certificate of authority. They could not have sent a clearer message that maintaining proper insurance coverage is of paramount importance under the Compact.<sup>4</sup> Further, this is not the first time respondent has violated the Commission's insurance requirements. Respondent has been suspended three times previously for insurance infractions.<sup>5</sup> Against this backdrop and considering that respondent operated not only without authority but without insurance, we do not believe reinstating Certificate No. 779 would be in the public interest at this time.<sup>6</sup> Accordingly, we shall revoke Certificate No. 779.

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<sup>3</sup> See In re Rehoboth Transp. Servs. LLC, No. MP-04-155, Order No. 8684 (May 4, 2005); (assessing civil forfeiture at \$250 per day for operating under invalid certificate of authority); In re A.S.K. Enters., Inc., No. MP-04-152, Order No. 8495 (Jan. 10, 2005) (same).

<sup>4</sup> Order No. 8684; Order No. 8495.

<sup>5</sup> In re Yai Med. Transp., L.L.C., No. MP-04-121, Order No. 8109 (June 18, 2004); In re Yai Med. Transp., L.L.C., No. MP-04-70, Order No. 7786 (Feb. 24, 2004); In re Yai Med. Transp., L.L.C., No. MP-03-159, Order No. 7537 (Nov. 14, 2003).

<sup>6</sup> The Commission has consistently revoked and refused to reinstate the certificates of authority of carriers who operate while suspended and uninsured. E.g., Order No. 8684; In re John Carmen Cadet, t/a Reliable Transp., No. MP-04-128, Order No. 8560 (Feb. 16, 2005); Order No. 8495; In re Babikir Ibrahim Elhag, t/a "BTS" Babcare Transp. Servs., No. MP-04-01, Order No. 7891 (Mar. 23, 2004). We see nothing in the record to warrant deviating from that precedent in this case.

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 \$750 for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Commission Order No. 8529.

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 seven hundred fifty dollars (\$750).

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 779 is hereby revoked for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact and Commission Order No. 8529.

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. 779 to the Commission.

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



William S. Morrow, Jr.  
Executive Director