

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,745

IN THE MATTER OF:

Served December 11, 2008

KHULON 1 ENTERPRISES, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 971)

Case No. MP-2008-208

This matter is before the Commission on respondent's failure to comply with Order No. 11,589, served September 25, 2008, which directed respondent to verify cessation of operations as of September 14, 2008, and corroborate the verification with copies of its pertinent business records.

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."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 971 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.

Certificate No. 971 was rendered invalid on September 14, 2008, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,577, served September 15, 2008, noted the automatic suspension of Certificate No. 971 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 971, and gave respondent thirty days to replace the terminated endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 971.

Respondent paid the late fee on September 18, 2008, and submitted a \$1.5 million primary WMATC Insurance Endorsement on September 24, 2008, but the effective date of the new endorsement is October 9, 2008, instead of September 14, 2008. This means that respondent was without insurance coverage for twenty-five days, from September 14, 2008, through October 8, 2008.

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

Under Regulation No. 58-14:

If a carrier's operating authority is suspended under Regulation No. 58-12 and the effective date of a later-filed replacement Endorsement falls after the automatic suspension date, the carrier must verify timely cessation of operations in accordance with Commission Rule No. 28 and corroborate the verification with client statements and/or copies of pertinent business records, as directed by Commission order.

Order No. 11,589 accordingly gave respondent until October 27 to verify cessation of operations as of September 14. Inasmuch as respondent's only tariff is for service rendered to the general public, the order directed respondent to corroborate the verification with copies of its business records for the period beginning July 1, 2008, and ending September 25, 2008.

II. RESPONSE

Through its attorney, respondent asserts that its insurance has been reinstated without any lapse in coverage and requests that the Commission rescind Order Nos. 11,577 and 11,589. Respondent, however, has not complied with the requirements in Order No. 11,589 that respondent file a statement addressing whether respondent continued operating on and after September 14 and that respondent produce copies of its pertinent business records.

III. ORDER TO LIFT SUSPENSION AND SHOW CAUSE

Inasmuch as respondent is currently in compliance with Regulation No. 58, we will lift the suspension.³ We shall not terminate this proceeding, however, because respondent has failed to address the issue of whether it operated while suspended and while no effective WMATC Endorsement was on file with the Commission.

Considering that respondent has not denied operating its vehicle(s) on and after the suspension date, and considering that respondent has failed to produce the required documents, respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 971, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.⁴

³ See *In re Epps Transp. Co., Inc.*, No. MP-08-124, Order No. 11,613 (Oct. 6, 2008) (same).

⁴ See *In re Addis Transp., Inc.*, No. MP-07-164, Order No. 11,112 (Jan. 29, 2008) (same); *In re Heaven on Wheels LLC.*, No. MP-07-238, Order No. 11,110 (Jan. 29, 2008) (same).

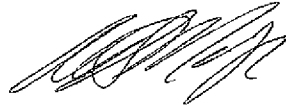
THEREFORE, IT IS ORDERED:

1. That the suspension of Certificate No. 971 is hereby lifted.

1. That 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. 971, for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

2. 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 AND CHRISTIE:



William S. Morrow, Jr.
Executive Director