

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,804

IN THE MATTER OF:

Served January 21, 2009

EPPS TRANSPORTATION COMPANY, INC., )  
Suspension and Investigation of )  
Revocation of Certificate No. 51 )

Case No. MP-2008-124

This matter is before the Commission on respondent's response to Order No. 11,613, served October 6, 2008, which directed respondent to produce certain copies of respondent's bank 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."<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. 51 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. 51 was rendered invalid on April 27, 2008, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,312, served April 28, 2008, noted the automatic suspension of Certificate No. 51 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 51, 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. 51. Respondent also was directed to file a new tariff because respondent's preexisting tariff was no longer effective.

Respondent paid the late fee and filed a new tariff on July 7. Respondent also submitted a new \$1.5 million primary WMATC Insurance Endorsement on July 16, but the effective date of the new endorsement is July 10, 2008, instead of April 27, 2008. This means that respondent was without insurance coverage for seventy-four days, from April 27, 2008, through July 9, 2008.

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

<sup>2</sup> 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. 11,480 accordingly directed respondent to verify cessation of operations as of April 27, 2008. Inasmuch as respondent's only tariff covers service rendered to the general public, respondent's verification was to be corroborated with copies of respondent's general business records.

Respondent subsequently filed a statement verifying cessation of operations as of October 19, 2007. Respondent also produced bank statements for the period beginning October 1, 2007, and ending June 30, 2008. The check and debit activity reflected in the statements is consistent with respondent's verification. The deposit activity is not. Respondent deposited over \$2,000 in May and June combined.

Order No. 11,613 accordingly directed respondent to produce copies of all items deposited to respondent's bank account during the period beginning March 1, 2008, and ending on October 6, 2008.

Respondent has yet to respond.

## **II. ORDER TO SHOW CAUSE**

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.<sup>3</sup> Each day of the violation constitutes a separate violation.<sup>4</sup> 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.<sup>5</sup>

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. 51, for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Order

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<sup>3</sup> Compact, tit. II, art. XIII, § 6(f)(i).

<sup>4</sup> Compact, tit. II, art. XIII, § 6(f)(ii).

<sup>5</sup> Compact, tit. II, art. XI, § 10(c).

No. 11,312, by conducting operations under an invalid/suspended certificate of authority, and for knowingly and willfully violating Order No. 11,613 by not producing the required documents.<sup>6</sup>

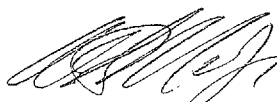
THEREFORE, IT IS ORDERED:

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 Order Nos. 11,312 and 11,613.

2. That respondent shall have thirty days to show cause why the Commission should not suspend or revoke Certificate No. 51 for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, and Order Nos. 11,312 and 11,613.

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 CHRISTIE AND BRENNER:



William S. Morrow, Jr.  
Executive Director

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<sup>6</sup> See *In re Suka Medical Transp., Inc.*, No. MP-08-155, Order No. 11,730 (Dec. 4, 2008) (same).