

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,812

IN THE MATTER OF:

Served January 26, 2009

SKY BLUE TOURS, INC., Suspension)
and Investigation of Revocation of)
Certificate No. 1179)

Case No. MP-2008-162

This matter is before the Commission on respondent's application for reconsideration of Order No. 11,689, served November 19, 2008, which assessed a civil forfeiture against respondent and revoked Certificate No. 1179 for respondent's knowing and willful advertising and provision of service in a 27-passenger vehicle in violation of the 15-person seating capacity restriction in Certificate No. 1179.

Order No. 11,689 was issued after respondent failed to respond to an earlier order directing respondent to show cause why the Commission should not assess a forfeiture and/or revoke Certificate No. 1179.

Under Title II of the Compact, Article XIII, Section 4(a), an application for reconsideration of a Commission order must be filed within thirty days of its publication and state specifically the errors claimed as grounds for reconsideration. Respondent timely filed the application for reconsideration as of December 18, 2008.

Respondent generally disputes the Commission's findings in Order No. 11,689 and in particular asserts that the 27-passenger vehicle was never operable. But the record shows the vehicle has or had commercial plates from the District of Columbia, and respondent does not explain how it would be possible to obtain commercial plates from the District of Columbia for a vehicle that could not pass inspection.

Respondent also contends that while it still advertises trolley service on its website despite a lack of WMATC authority, there is no violation because customer inquiries generated by respondent's advertising of trolley service are allegedly referred to other carriers. But the website does not explain that applicant is not a carrier but merely a broker. Therefore, the defect in the advertisement has not been corrected.

In any event, respondent's statement is not under oath as required by Rule No. 4-06, and respondent's statement is not accompanied by any records that might tend to corroborate it. We are not persuaded by respondent's claims that it has "no records" bearing on these issues. It is not possible to register and insure a 27-

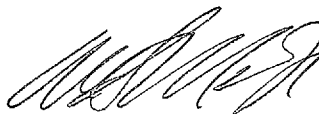
passenger vehicle without generating any records. Furthermore, it seems unlikely that respondent would maintain a website for the sole purpose of generating revenue for other carriers, and any revenue generated by alleged referrals must be recorded and reported by respondent under the Internal Revenue Code.

Finally, respondent should not have waited until now to raise these defenses. Respondent should have raised them in response to the show cause order.¹

Under the circumstances, the application for reconsideration, shall be denied.²

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.
Executive Director

¹ See *In re Double Decker Bus Tours, W.D.C., Inc.*, No. AP-95-21, Order No. 4730 at 4 (Jan. 4, 1996) (same).

² See *In re Marbec LLC, t/a Marbec Limo Servs. LLC*, No. MP-06-052, Order No. 10,346 (Mar. 23, 2007) (forfeiture assessed and authority revoked where respondent submitted unsworn statement and no records in response to show cause order).