

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,813

IN THE MATTER OF:

Served January 26, 2009

SAMS HEALTH CARE SERVICES INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 1278)

Case No. MP-2008-005

This matter is before the Commission on respondent's response to Order No. 11,306, served April 24, 2008, which directed respondent to submit an affidavit stating when respondent ceased operating in response to Order No. 11,062, served January 7, 2008, and to corroborate the affidavit with a statement from respondent's sole client at the time, Medical Transportation Management, Inc. (MTM).

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. 1278 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. 1278 was rendered invalid on January 5, 2008, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,062, served January 7, 2008, noted the automatic suspension of Certificate No. 1278 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 1278, and gave respondent thirty days to replace the expired endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1278. Respondent also was directed to file a new tariff because respondent's preexisting tariff was no longer effective.

Respondent subsequently filed a new tariff and paid the late fee. Respondent also filed a \$1.5 million primary WMATC Insurance Endorsement, but the endorsement had an effective date of January 19,

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

2008, instead of January 5, 2008. Order No. 11,263, served April 4, 2008, accordingly gave respondent thirty days to verify cessation of operations as of January 5, 2008, in accordance with Commission Rule No. 28, and to corroborate the verification with a statement from respondent's only customer, MTM.

Respondent subsequently submitted a revised \$1.5 million WMATC Insurance Endorsement with an effective date of January 5, 2008, thus eliminating the 14-day gap in coverage under the original replacement endorsement. Respondent, however, failed to file any statement regarding cessation of operations as of January 5, 2008, and failed to file any statement from MTM, as required by Order No. 11,263.

Order No. 11,306 lifted the suspension based on respondent having reestablished compliance with Regulation No. 58 and directed respondent to file the statements required by Order No. 11,263.

II. RESPONSE

Respondent admits operating until March 24, 2008. Respondent claims it was unaware of the suspension until then because the Commission sent the order to the wrong address. But the record clearly shows that the suspension order, sent by certified mail, was returned to the Commission unclaimed because respondent failed to sign for it despite two delivery attempts by the U.S. Postal Service, not because the addressee was unknown. Commission records show respondent filed a change of address with the Commission, but not until February 22, 2008.

Further, respondent should have checked with the Commission on or before the January 5, 2008, expiration date to make sure the necessary replacement endorsement(s) had been filed.³

III. 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.⁴ Each day of the violation constitutes a separate violation.⁵ 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.⁶

Respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent,

³ See *In re Zee Transp., Serv. Inc.*, No. MP-07-120, Order No. 10,671 (Aug. 8, 2007) (same).

⁴ Compact, tit. II, art. XIII, § 6(f)(i).

⁵ Compact, tit. II, art. XIII, § 6(f)(ii).

⁶ Compact, tit. II, art. XI, § 10(c).

and/or suspend or revoke Certificate No. 1278, for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Order No. 11,062, by conducting operations under an invalid/suspended certificate of authority, and for knowingly and willfully violating Order No. 11,263 by not producing the statements required by that order.⁷

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. 11,062 and 11,263.

2. That respondent shall have thirty days to show cause why the Commission should not suspend or revoke Certificate No. 1278 for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, and Order Nos. 11,062 and 11,263.

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

⁷ See *In re Suka Medical Transp., Inc.*, No. MP-08-155, Order No. 11,730 (Dec. 4, 2008) (same).