

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,816

IN THE MATTER OF:

Served January 26, 2009

SUKA MEDICAL TRANSPORT, INC., )  
Suspension and Investigation of )  
Revocation of Certificate No. 1110 )

Case No. MP-2008-155

This matter is before the Commission on respondent's response to Order No. 11,730, served December 4, 2008, which directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1110.

**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. 1110 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. 1110 was rendered invalid on June 7, 2008, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,401, served June 10, 2008, noted the automatic suspension of Certificate No. 1110 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 1110, and gave respondent thirty days to replace the cancelled endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1110.

Respondent paid the late fee on June 23, 2008, and submitted a \$1.5 million primary WMATC Insurance Endorsement on June 10, 2008, but the effective date of the new endorsement is June 19, 2008, instead of June 7, 2008. This means that respondent was without insurance coverage for twelve days, from June 7, 2008, through June 18, 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. 11,426, served June 25, 2008, accordingly directed respondent to verify cessation of operations as of June 7, 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 filed a statement verifying cessation of operations as of June 5, 2008, but bank records produced by respondent showed a substantial number of purchases from gasoline retailers after June 7, 2008. Order No. 11,632, served October 16, accordingly directed respondent to submit statements from its clients corroborating respondent's cessation of operations from June 7 until October 16.

In the meantime, because respondent was in compliance with Regulation No. 58, Order No. 11,632 lifted the suspension of Certificate No. 1110.

Respondent subsequently produced statements from five of twenty clients. Respondent did not explain the failure to produce statements from the other fifteen, and respondent did not explain the substantial number of purchases from gasoline retailers after June 7, 2008.

Order No. 11,730, therefore, directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1110, for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Order No. 11,401, by conducting operations under an invalid/suspended certificate of authority, and for knowingly and willfully violating Order No. 11,632 by not producing statements from all clients.

## **II. FINDINGS AND ORDER TO TERMINATE PROCEEDING**

Respondent has filed a statement explaining that the gas purchases reflected in respondent's bank records were for personal use. The frequency of purchases and purchase amounts are consistent with this explanation. As for the missing fifteen client statements, respondent explains that it was unable to locate some clients, and the others would not cooperate.

Based on the evidence, we find respondent has shown cause for not assessing a forfeiture and for not revoking Certificate No. 1110. Accordingly, this proceeding is hereby terminated.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.  
Executive Director