

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,818

IN THE MATTER OF:

Served January 26, 2009

ABEBE TEKLEMARIAM ALEMU, Trading as) Case No. MP-2008-172
EXPRESS RIDE, Suspension and)
Investigation of Revocation of)
Certificate No. 1365)

This matter is before the Commission on respondent's failure to respond to Order No. 11,691, served November 19, 2008, which directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 1365.

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. 1365 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. 1365 was rendered invalid on July 5, 2008, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,463, served July 7, 2008, noted the automatic suspension of Certificate No. 1365 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1365, 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. 1365.

Respondent paid the late fee on July 17, 2008, and submitted a \$1.5 million primary WMATC Insurance Endorsement on July 14, 2008, but the effective date of the new endorsement is July 15, 2008, instead of July 5, 2008. This means that respondent was without insurance coverage for ten days, from July 5, 2008, through July 14, 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. 11,481, served July 21, 2008, accordingly gave respondent thirty days to verify that it ceased operations as of July 5, 2008. Inasmuch as respondent's only tariff is for service rendered under contract with Logisticare Solutions, LLC, respondent was to corroborate the verification with written confirmation from Logisticare. Respondent did not respond, and the WMATC Endorsement filed July 14 was cancelled in the meantime, effective August 20, 2008.

Order No. 11,691 accordingly gave respondent thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 1365, for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

Respondent has yet to respond.

II. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY

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.³

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.⁴

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁵ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by intentional or careless disregard or plain indifference.⁶

³ Compact, tit. II, art. XIII, § 6(f).

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re Metro Health-Tech Servs. Inc.*, No. MP-08-057, Order No. 11,588 (Sept. 24, 2008).

⁶ *Id.*

Because respondent has failed to respond to Order Nos. 11,481 and 11,691 and has offered no explanation for this failure, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250.⁷ Because respondent failed to comply with those orders and Regulation No. 58, and has offered no explanation for these failures, we find that respondent has failed to show cause why the Commission should not revoke Certificate No. 1365.⁸

Because this matter was ripe for decision in 2008, the annual report and annual fee for 2009 shall be waived, unless and until otherwise ordered.⁹ To prevent circumvention of Regulation Nos. 60-01 and 67-02, respondent's 2009 annual report and 2009 annual fee shall be due in the event Certificate No. 1365 is reinstated in 2009.¹⁰

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Order Nos. 11,481 and 11,691.

2. That respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 1365 is hereby revoked for respondent's willful failure to comply with Regulation No. 58 and Order Nos. 11,481 and 11,691.

4. That the 2009 annual report and annual fee for Carrier No. 1365 shall be waived unless and until otherwise ordered; provided that respondent's 2009 annual report and 2009 annual fee shall be due in the event Certificate No. 1365 is reinstated in 2009.

5. That within 30 days from the date of this order respondent shall:

⁷ See *In re Fon Pius Nde, t/a Piusmed World Transp.*, No. MP-07-187, Order No. 11,362 (May 15, 2008) (same).


⁸ See *id* (same); see also *In re Best Choice Transp., Inc.*, No. MP-07-147, Order No. 11,477 (July 18, 2008) (revoking authority in part for failing to file acceptable verification and produce documents); *In re Marbec LLC, t/a Marbec Limo. Servs. LLC*, No. MP-06-052, Order No. 10,346 (Mar. 23, 2007) (same); *In re Gold Transp., Inc.*, No. MP-05-171, Order No. 9985 (Oct. 11, 2006) (same).

⁹ See *In re Alem Mestlin, t/a AM Transp.*, No. MP-06-201, Order No. 11,076 (Jan. 14, 2008) (same).

¹⁰ See *In re Almighty Time Investments Inc., t/a Almighty Courier - Transp. Servs.*, No. MP-08-250, Order No. 11,799 (Jan. 15, 2009) (same).

- a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- c. surrender Certificate No. 1365 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.
Executive Director