

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,316

IN THE MATTER OF:

Served February 24, 2010

DYNASTY UNLIMITED, INC., Suspension)
and Investigation of Revocation of)
Certificate No. 1371)

Case No. MP-2009-131

This matter is before the Commission on respondent's failure to respond to Order No. 12,245, served December 9, 2009, which directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1371.

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. 1371 for a minimum of \$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. 1371 was rendered invalid on October 4, 2009, when the \$5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 12,181, served October 5, 2009, noted the automatic suspension of Certificate No. 1371 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1371, 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. 1371.

Respondent submitted a \$5 million primary WMATC Insurance Endorsement on October 16, 2009, and paid the late fee on October 21, 2009, and the suspension was lifted in Order No. 12,205 on October 22, 2009, but this proceeding was not terminated at that time because the effective date of the new endorsement is October 16, 2009, instead of October 4, 2009. Under Regulation No. 58-14:

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

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.

In accordance with Regulation No. 58-14, Order No. 12,205 gave respondent until November 21, 2009, to verify cessation of operations as of October 4, 2009, and to corroborate the verification with copies of respondent's business records for the period beginning August 1, 2009, and ending October 22, 2009. Respondent did not respond.

Because respondent failed to verify cessation of operations on and after the suspension date and failed to produce any documents, Order No. 12,245, served December 9, 2009, gave respondent thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1371, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed in violation of Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding. Respondent has yet to respond to Order No. 12,245.

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

Because respondent failed to respond to Order Nos. 12,205 and 12,245 and has offered no explanation for this failure, we find that

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

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re Union, Inc.*, No. MP-09-007, Order No. 12,103 (July 24, 2009).

⁶ *Id.*

respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250⁷ and revoke Certificate No. 1371.⁸

III. 2010 ANNUAL FEE AND REPORT

Commission Regulation No. 60-01 provides that each carrier holding a certificate of authority on the first day of the calendar year shall file an annual report on or before January 31 of that year. Regulation No. 67-02 provides that each carrier holding a certificate of authority on the first day of the calendar year shall pay an annual fee of \$150 on or before January 31 of that year.

Respondent held Certificate No. 1371 on January 1, 2010, but has yet to tender an annual report and fee for 2010. As a result, in addition to the annual report and \$150 annual fee, respondent now owes \$200 in late fees pursuant to Regulation No. 67-03(a),(b). Respondent will be directed to file the report and pay all outstanding fees.

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 Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

2. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 1371 is hereby revoked for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

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

- a. pay to the Commission by money order or check, the sum of six hundred dollars (\$600), comprised of the \$250 forfeiture assessed in this order, the \$150 annual fee for 2010 due under Regulation No. 67-02, and \$200 in late fees due under Regulation No. 67-03(a),(b);
- b. file an annual report for 2010;
- c. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- d. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- e. surrender Certificate No. 1371 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND CHRISTIE:

⁷ See *id* (same).

⁸ See *id* (same).

A handwritten signature in black ink, appearing to read 'W.S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.
Executive Director