

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,330

IN THE MATTER OF:

Served March 8, 2010

COUPLES, LLC, Trading as COUPLES ) Case No. MP-2009-134  
LIMOUSINES, Suspension and )  
Investigation of Revocation of )  
Certificate No. 1417 )

This matter is before the Commission on respondent's response to Order No. 12,265, served December 29, 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. 1417.

**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. 1417 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. 1417 was rendered invalid on October 13, 2009, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 12,190, served October 13, 2009, noted the automatic suspension of Certificate No. 1417 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1417, 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. 1417.

Respondent submitted a \$1.5 million primary WMATC Insurance Endorsement on October 23, 2009, and paid the late fee on November 3, 2009, and the suspension was lifted in Order No. 12,217 on November 3, 2009, but this proceeding was not terminated at that time because the

---

<sup>1</sup> Compact, tit. II, art. XI, § 6(a).

<sup>2</sup> Compact, tit. II, art. XI, § 7(g).

effective date of the new endorsement is October 23, 2009, instead of October 13, 2009. 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.

In accordance with Regulation No. 58-14, Order No. 12,217 gave respondent until December 3, 2009, to verify cessation of operations as of October 13, 2009, and to corroborate the verification with copies of respondent's business records for the period beginning August 1, 2009, and ending November 3, 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. 12,265, served December 29, 2009, gave respondent 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1417, 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.

## **II. RESPONSE TO ORDER NO. 12,265**

Respondent's owner, Kevin Williams, filed a statement on February 1, 2010, admitting that respondent operated from October 14, 2009, to October 23, 2009. A supporting schedule attached to the statement indicates respondent operated while suspended on October 13-17, 19-21, and 23, or nine separate days.

Mr. Williams explains respondent's failure to timely file a replacement WMATC Endorsement as follows:

My policy was being renewed for my sedan and the coverage amount was lowered for the limousine for the 2009-2010 period, I was told that to conform to the certificate of authority of [WMATC], that I can't have less than the 1.5 million to operate. So, as a result my policy was re written with the date of October 23, 2009 to reflect the right coverage amount.

## **III. ASSESSMENT OF CIVIL FORFEITURE**

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.<sup>3</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>4</sup> The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard of whether or not one has the right so to act.<sup>5</sup> Employee negligence is no defense.<sup>6</sup> "To hold carriers not liable for penalties where the violations . . . are due to mere indifference, inadvertence, or negligence of employees would defeat the purpose of" the statute.<sup>7</sup>

Mr. Williams states that he believed respondent had the "right coverage amount." This does not square with his statement that "the coverage amount was lowered" when respondent renewed its policy for the 2009-2010 period and that the "policy was re written with the date of October 23, 2009 to reflect the right coverage amount." In any event, under Regulation No. 58-11:

When a WMATC carrier's insurance has terminated or is about to terminate the carrier must contact the Commission to ascertain whether the necessary WMATC Insurance Endorsement has been filed before continuing to operate on and after the termination date. Proof a WMATC carrier has satisfied its duty to verify shall consist of contemporaneous written verification from the Commission.

There is no evidence in the record indicating that respondent contacted the Commission to ascertain whether the necessary WMATC Insurance Endorsement had been filed before continuing to operate on and after October 13, 2009. We therefore find that respondent has failed to show cause why the Commission should not assess a civil forfeiture.

We shall assess a forfeiture against respondent in the amount of \$500 per day,<sup>8</sup> or \$4,500, for knowingly and willfully operating nine days while suspended and underinsured.

---

<sup>3</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>4</sup> *In re Skyhawk Logistics, Inc.*, No. MP-09-044, Order No. 12,101 (July 24, 2009); *In re Westview Med. & Rehab. Servs., P.C. Inc.*, No. MP-07-070, Order No. 10,882 (Nov. 2, 2007).

<sup>5</sup> Order No. 12,101; Order No. 10,882.

<sup>6</sup> *In re Khulon 1 Enters., Inc.*, No. MP-08-208, Order No. 11,934 (Apr. 9, 2009); *In re Special People Transp., LLC*, No. MP-06-103, Order No. 10,683, (Aug. 8, 2007).

<sup>7</sup> *United States v. Illinois Cent. R.R.*, 303 U.S. 239, 243, 58 S. Ct. 533, 535 (1938).

<sup>8</sup> *Cf.*, *In re Capitol Bus Rental, Inc., t/a Capitol Tours*, No. MP-95-04, Order No. 4609 (June 7, 1995) (assessing \$500 per day against carrier with no valid WMATC authority and no valid WMATC Endorsement).

#### IV. REVOCATION OF AUTHORITY

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.<sup>9</sup>

When the signatories and Congress approved the Compact, they designated noncompliance with Commission insurance requirements as the single offense that would automatically invalidate a certificate of authority.<sup>10</sup> They could not have sent a clearer message that maintaining proper insurance coverage is of paramount importance under the Compact.<sup>11</sup>

As noted above, the WMATC Endorsement on file for respondent that terminated October 13, 2009, was not replaced until October 23, 2009, and the effective date of the replacement endorsement is October 23, 2009, instead of October 13, 2009, creating a 10-day period during which coverage was not available under any WMATC Endorsement. Respondent admits operating during that 10-day period.

It matters not that a policy may have been in effect during that 10-day period. What matters is that respondent operated "without the complete protection afforded by the WMATC Insurance Endorsement."<sup>12</sup> Further, it is clear from Mr. Williams's statement that the amount of coverage under respondent's policy during the 10-day period was less than the \$1.5 million minimum required by Regulation No. 58.

This is not the first time respondent violated the Commission's insurance requirements. Certificate No. 1417 was suspended in May 2008 when the WMATC Insurance Endorsement on file for respondent terminated without replacement.<sup>13</sup> The Endorsement terminated on May 11, 2008, and was not replaced until May 19, 2008.<sup>14</sup>

We therefore find that respondent has failed to show cause why the Commission should not revoke respondent's certificate of authority for willfully operating while underinsured.<sup>15</sup>

THEREFORE, IT IS ORDERED:

---

<sup>9</sup> Compact, tit. II, art. XI, § 10(c).

<sup>10</sup> Compact, tit. II, art. XI, § 7(g).

<sup>11</sup> Order Nos. 12,101, 10,882.

<sup>12</sup> Order No. 10,882.

<sup>13</sup> *In re Couples, LLC, t/a Couples Limousines*, No. MP-08-141, Order No. 11,348 (May 12, 2008).

<sup>14</sup> *In re Couples, LLC, t/a Couples Limousines*, No. MP-08-141, Order No. 11,382 (May 29, 2008).

<sup>15</sup> See Order No. 12,101 (revoked in part for operating while underinsured); Order No. 10,882 (same).

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 \$4,500 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. 1417 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 four thousand five hundred dollars (\$4,500);
- b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- c. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 1417 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND CHRISTIE:



William S. Morrow, Jr.  
Executive Director