

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,601

IN THE MATTER OF:

Served February 26, 2014

Application of ADEPEJU AKINTO,)
Trading as ADVANTAGE SERVICES, for)
a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2013-368

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If the applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.¹ A determination of compliance fitness is prospective in nature.² The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.³ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁴

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar

¹ *In re Reliable Limo. & Bus Serv., LLC*, No. AP-12-183, Order No. 13,775 (Feb. 28, 2013).

² *Id.*

³ *Id.*

⁴ *Id.*

with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Normally, such evidence would establish an applicant's fitness,⁵ but applicant and applicant's operations manager have a record of controlling companies with a history of regulatory violations.

I. HISTORY OF VIOLATIONS

According to Commission records, applicant previously served as vice president of Faith Transport Inc., (Faith), and applicant's operations manager, John Owode, served as Faith's president. Faith formerly held WMATC Certificate No. 1174. Said certificate was revoked in Order No. 11,962 on April 30, 2009, for Faith's willful failure to comply with the Commission's insurance requirements in Regulation No. 58 and for Faith's willful failure to pay a \$50 late fee in accordance with Regulation No. 67-03(c).⁶

The revocation order stipulated that the \$50 late fee would remain due and gave Faith 30 days to file an affidavit verifying removal of vehicle markings and 30 days to surrender Certificate No. 1174. Faith has yet to comply.

II. LIKELIHOOD OF FUTURE COMPLIANCE

When an applicant or a person controlling an applicant has a record of violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5) whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁷

The failure of Faith to maintain compliance with the Commission's insurance requirements and pay the \$50 late fee was deemed serious enough to warrant revocation of Faith's operating authority, and Faith has yet to pay the outstanding fee, verify removal of vehicle markings, and surrender Certificate No. 1174.

In response to a query recounting the requirements of Order No. 11,962 and questioning why approving this application would be consistent with the public interest when Faith has not complied with the order's terms, applicant explains that Faith never received the

⁵ *Id.*

⁶ In re *Faith Transp. Inc.*, No. MP-09-045, Order No. 11,962 (Apr. 30, 2009).

⁷ Order No. 13,775.

order. But now that applicant has been made aware of the order's requirements, this does not explain why applicant has taken no steps to bring about Faith's compliance.

III. CONCLUSION

On this record, we cannot say that applicant has corrected past mistakes and demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁸

THEREFORE, IT IS ORDERED that the application of Adepeju Akinto, trading as Advantage Services, for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER, HOLCOMB, AND BELLAMY:



William S. Morrow, Jr.
Executive Director

⁸ See *In re F&O Transp.*, No. AP-10-132, Order No. 12,638 (Nov. 29, 2010) (denying application of previous certificate holder for failing to confirm removal of vehicle markings).