

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,916

IN THE MATTER OF:

Served October 20, 2015

METRO TRANSCARE LLC, Suspension and)
Investigation of Revocation of)
Certificate No. 1922)

Case No. MP-2014-042

This matter is before the Commission on respondent's response to Order No. 15,490, served April 7, 2015.

I. BACKGROUND

Certificate No. 1922 was automatically suspended on March 21, 2014, pursuant to Regulation No. 58-12, when the \$1 million primary and \$500,000 excess WMATC Insurance Endorsements on file for respondent terminated without replacement. Order No. 14,651, served March 21, 2014, gave respondent 30 days to replace the terminated endorsement and pay a \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1922. Respondent failed to timely respond, and Certificate No. 1922 was revoked on June 19, 2014, in Order No. 14,848.

Respondent later paid the late fee and filed an acceptable \$1.5 million primary WMATC Endorsement, but the effective date of the replacement endorsement is July 18, 2014, instead of March 21, 2014. Consistent with Rule No. 26-04 and Regulation No. 58-14, Order No. 15,050, served September 12, 2014, reopened the proceeding, reinstated Certificate No. 1922, directed respondent to verify cessation of operations as of March 21, 2014, and required respondent to corroborate its verification statement with copies of pertinent business records from January 1, 2014, to September 12, 2014.

On October 10, 2014, respondent submitted a statement from its president, Mahamane Dabo. The statement reads in pertinent part as follows:

In response to your letter dated September 12, 2014, Metro Transcare L.L.C, after losing the contract with Logisticare in June 28, 2013 did not have any operations from that date and still remain with no operation as of today. Metro Transcare L.L.C does not have any customer, no calendars and itineraries.

Respondent's document production consisted of two Internet printouts, a two-page listing of "Transaction Details" for a BB&T bank account and a two-page "Transaction Activity" listing for a SunTrust Bank account.

The Commission found respondent's document production deficient because Order No. 15,050 directed respondent to produce all records in respondent's possession, custody, or control pertaining to the Metropolitan District from January 1, 2014, to September 12, 2014, not merely bank statements, calendars, and itineraries, and respondent offered no explanation for not producing all of its records. For example, respondent produced none of the paperwork that would have been generated when respondent took its insurance business from Knightbrook Insurance Company to National Liability & Fire Insurance Company in July 2014.

This was not the first time that respondent allowed its vehicle liability insurance to lapse. Commission records show that respondent was without insurance coverage for a single day on September 18, 2013. The Commission refrained from revoking Certificate No. 1922 for that infraction because of a lack of evidence that respondent continued operating after being suspended.¹ But the document production in the 2013 proceeding was far more robust than it has been in this proceeding. Given the four-month lapse in coverage at issue in this proceeding, respondent's document production in this proceeding should be more robust, not less.

Based on the record as of April 7, 2015, Order No. 15,490 directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1922, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

II. RESPONSE TO ORDER NO. 15,490

On June 15, 2015, Mr. Dabo filed a new statement that affirmed his understanding of the "consequences" of operating while suspended and pledged that respondent "will never violate the WMATC regulations." The new statement is supported by additional banking records. No other records have been forthcoming.

III. NEW VIOLATIONS

One month later on July 17, 2015, Certificate No. 1922 was suspended under Regulation No. 58-12 once again for respondent's willful failure to maintain compliance with the insurance requirements specified in Regulation No. 58. Order No. 15,746, served July 17, 2015, noted that Certificate No. 1922 would be subject to revocation if respondent failed to file the necessary insurance endorsement(s) and pay a \$100 late fee within 30 days. Respondent failed to file the necessary insurance endorsement(s) and pay the late fee. Accordingly,

¹ *In re Metro Transcare LLC*, No. MP-13-117, Order No. 14,465 (Jan. 8, 2014).

Certificate No. 1922 was revoked pursuant to Regulation No. 58-15(a) in Order No. 15,808 on August 20, 2015.²

IV. FINDINGS AND ASSESSMENT OF 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.³

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁴ 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.⁵

Because respondent has failed to produce ALL business records from January 1, 2014, to September 12, 2014, as required by Regulation No. 58-14(a) and Order No. 15,050, and because respondent has offered no explanation for this noncompliance, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250.⁶

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 Regulation No. 58-14(a) and Order No. 15,050.

2. That respondent is hereby directed to pay to the Commission within 30 days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

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



William S. Morrow, Jr.
Executive Director

² *In re Metro Transcare LLC*, No. MP-15-135, Order No. 15,808 (Aug. 20, 2015).

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

⁴ *In re Car Plus Transportation LLC*, No. MP-14-099, Order No. 15,592 (May 15, 2015).

⁵ *Id.*

⁶ See *id.* (assessing \$250 for failing to produce documents).