

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,924

IN THE MATTER OF:

Served April 6, 2017

BUTLER MEDICAL TRANSPORT, LLC,)
Trading as BUTLER MOBILITY,)
Suspension and Investigation of)
Revocation of Certificate No. 1748)

Case No. MP-2017-037

This matter is before the Commission on respondent's response to Order No. 16,920, served April 4, 2017.

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. 1748 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.

On April 5, 2016, RLI Insurance Company filed on respondent's behalf a \$3 million primary WMATC Insurance Endorsement with an effective date of April 1, 2016, and an expiration date of April 1, 2017. On March 31, 2017, Old Republic Insurance Company filed on respondent's behalf a \$1 million primary WMATC Insurance Endorsement with an effective date of September 1, 2016, and an expiration date of June 1, 2017.

Commission Regulation No. 58-07 governs commencement and termination of WMATC Insurance Endorsements, as follows:

Coverage under a WMATC Insurance Endorsement shall commence on the specified effective date and continue until the earliest of:

- (a) the specified expiration date;

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

(b) the effective date specified in a notice of cancellation or thirty (30) days after the notice is received by the Commission, whichever is later;

(c) thirty (30) days after receipt by the Commission of an acceptable application from the insured for voluntary termination of WMATC operating authority;

(d) thirty (30) days after revocation by the Commission; or

(e) the effective date of a later-executed replacement Endorsement.

Commencement and termination shall occur at 12:01 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable.

Under Regulation No. 58-07(e), the filing of the \$1 million Old Republic Endorsement on March 31 caused the \$3 million RLI Endorsement to stand terminated as of September 1, 2016, leaving respondent underinsured by \$500,000 as of September 1, 2016, causing Certificate No. 1748 to become automatically suspended under Regulation No. 58-12 as of that date.³

Order No. 16,920 noted the automatic suspension of Certificate No. 1748 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1748, and gave respondent 30 days to replace the terminated endorsement and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1748.

Respondent paid the late fee on April 6, 2017, and submitted a \$5 million, excess of \$1 million, WMATC Insurance Endorsement on April 6, 2017, but the effective date of the new endorsement is December 1, 2016, instead of September 1, 2016.

II. ORDER TO LIFT SUSPENSION AND CONTINUE INVESTIGATION

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.

³ See *In re Challenger Transp., Inc.*, No. MP-14-139, Order No. 15,293 (Jan. 6, 2015) (applying Reg. No. 58-07(e)).

In accordance with Regulation No. 58-14, respondent will be directed to submit a statement verifying cessation of WMATC operations as of September 1, 2016. The statement shall be corroborated by copies of respondent's pertinent business records.

Inasmuch as respondent has filed the necessary replacement Endorsement(s) and paid the late fee under Regulation No. 67-03(c), we will lift the suspension in accordance with Regulation No. 58-13.

THEREFORE, IT IS ORDERED:

1. That the suspension of Certificate No. 1748 is hereby lifted.

2. That within 30 days from the date of this order, respondent shall verify it ceased all operations in the Metropolitan District as of September 1, 2016.

3. That within 30 days from the date of this order, respondent shall produce any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within respondent's possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning July 1, 2016, and ending on the date of this order, including, but not limited to any and all:

- a. customer contracts and invoices;
- b. calendars and itineraries;
- c. bank and credit card statements.

FOR THE COMMISSION:



William S. Morrow, Jr.
Executive Director