

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,944

IN THE MATTER OF:

Served April 13, 2017

US CAPITAL SEDAN LLC, Suspension )  
and Investigation of Revocation of )  
Certificate No. 2782 )

Case No. MP-2016-190

This matter is before the Commission on respondent's failure to respond to Order No. 16,846, served February 17, 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."<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. 2782 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. 2782 was rendered invalid on November 13, 2016, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent expired without replacement. Order No. 16,676, served November 14, 2016, noted the automatic suspension of Certificate No. 2782 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 2782, and 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. 2782.

Respondent did not respond, and Certificate No. 2782 was revoked in Order No. 16,750 on December 15, 2016, pursuant to Regulation No. 58-15(a). Respondent thereafter submitted the necessary WMATC Insurance Endorsement, paid the late fee, and filed a timely application for reconsideration of Order No. 16,750, and Certificate of Authority No. 2782 was reinstated in accordance with Regulation No. 58-15(b) in Order No. 16,800, served January 12, 2017.

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

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

Because the effective date of respondent's replacement endorsement was December 29, 2016, instead of November 13, 2016, the expiration date of the prior endorsement, thereby creating a 46-day gap in required coverage, Order No. 16,800 directed respondent to submit a statement verifying cessation of operations as of November 13, 2016, and corroborate the verification with copies of respondent's pertinent business records, in accordance with Regulation No. 58-14(a). 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. 16,846, served February 17, 2017, 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. 2782, 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. 16,846.

## **II. ASSESSMENT OF FORFEITURE/FEEES 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.<sup>3</sup>

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>4</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>5</sup> 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.<sup>6</sup>

Because respondent has failed to respond to Order No. 16,800 and has offered no explanation for this failure, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250<sup>7</sup> and revoke Certificate No. 2782.<sup>8</sup>

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

<sup>4</sup> Compact, tit. II, art. XI, § 10(c).

<sup>5</sup> *In re Fon Pius Nde, t/a Piusmed World Transp.*, No. MP-07-187, Order No. 11,362 (May 15, 2008).

<sup>6</sup> *Id.*

<sup>7</sup> See *id.* (same).

<sup>8</sup> See *id.* (same)

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 Order No. 16,800.

2. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 2782 is hereby revoked for respondent's willful failure to comply with Order No. 16,800.

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

- a. pay to the Commission by check or money order the sum of two hundred fifty dollars (\$250);
- b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- c. file a notarized affidavit and supporting photograph(s) with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 2782 to the Commission.

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



William S. Morrow, Jr.  
Executive Director