

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,335

IN THE MATTER OF:

Served December 5, 2017

Application of GEORGE TOWNE TROLLEY)
TOURS AND TRANSPORTATION LLC for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2017-135

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. 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 with and will comply with the Compact, the Commission's rules,

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.*

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 this applicant has a history of regulatory violations.

I. HISTORY OF VIOLATIONS

According to Commission records, applicant held WMATC Certificate No. 1833 from January 11, 2012, to March 21, 2016, when it was revoked in Case No. MP-16-023 after having been suspended on February 16, 2016, for applicant's willful failure to maintain compliance with the Commission's insurance requirements in Regulation No. 58.⁶

In addition, the record in this proceeding shows that applicant continued operating after February 16, 2016. Invoices produced by applicant show that applicant transported passengers for hire between points in the Metropolitan District on 14 dates after the suspension and revocation of Certificate No. 1833: five in July 2016, one in August 2016, two in September 2016, two in October 2016, one in January 2017, and three in March 2017. And records obtained from Errands Plus, Inc., trading as RMA Chauffeured Transportation Service, reveal an additional date of service in March 2017 and two in April 2017, for a total of 17 days of unlawful operations.

The record in this proceeding further shows that applicant has yet to remove its WMATC number from all vehicles as required by Regulation No. 61-04 and as directed by Order No. 16,260. Photos produced by applicant show that applicant's WMATC number has not been removed from four vehicles, only covered up in a non-permanent manner.

Finally, applicant has yet to cease advertising service requiring a WMATC certificate of authority.⁷

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.⁸

⁵ *Id.*

⁶ *In re George Towne Trolley Tours and Transp. LLC*, No. MP-16-023, Order No. 16,260 (Mar. 21, 2016).

⁷ See www.alllimotour.com.

⁸ Order No. 13,775 at 3-4.

Applicant's failure to maintain compliance with Regulation No. 58 was serious enough to warrant revocation of Certificate No. 1833. Applicant's unlawful operations in the Metropolitan District persisted well into the current year. And applicant's unlawful advertising in the Metropolitan District continues to this day.

Applicant's owner, Mr. Esaias Dessie, admits conducting WMATC operations from February 6, 2016, when Certificate No. 1833 was suspended, until August 4, 2017, but contends he was not aware of the suspension. Commission records, however, show that a copy of the March 21, 2016, revocation order was served on applicant by the U.S. Postal Service on April 23, 2016, via Certified Mail.

III. CONCLUSION

On this record, we cannot say that applicant has carried its burden of establishing regulatory compliance fitness.

Applicant may reapply after removing all WMATC markings from its vehicles and discontinuing its unlawful operations and advertising.

In the event applicant reapplies for operating authority, applicant shall show cause why the Commission should not assess a civil forfeiture against applicant for committing the violations identified in this order.⁹

THEREFORE, IT IS ORDERED:

1. That the application of George Towne Trolley Tours and Transportation LLC for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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

- a. cease advertising service requiring operating authority from this Commission;
- b. remove from applicant's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61; and
- c. file a notarized affidavit verifying compliance with the preceding requirements, and with respect to removal of markings, file supporting photograph(s).

3. That in the event applicant reapplies for operating authority, applicant shall show cause why the Commission should not

⁹ See *In re Giron's Limo Serv., Inc.*, No. AP-17-017, Order No. 16,934 (Apr. 11, 2017) (assessing forfeiture in application proceeding).

assess a civil forfeiture against applicant for knowingly and willfully advertising and providing passenger transportation between points in the Metropolitan District without authority and for failing to remove from applicant's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61, as directed by Order No. 16,260.

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

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.
Executive Director