

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,336

IN THE MATTER OF:

Served December 5, 2017

PARAMED MEDICAL TRANSPORTATION,)
INC., Trading as PARA-MED, WMATC)
No. 206, Investigation of Violation)
of Regulation Nos. 64-01, 64-02(b),)
and 64-04)

Case No. MP-2017-156

This investigation is being initiated to determine whether respondent knowingly and willfully violated Commission Regulation Nos. 64-01, 64-02(b), and 64-04 by transporting passengers for hire between points within the Metropolitan District in vehicles that do not display for-hire license plates and in vehicles that have not passed a motor vehicle safety inspection within the preceding 12 months.

I. COMMISSION REQUIREMENTS AT ISSUE

Commission Regulation No. 64-04 provides that, "[n]o person shall operate a motor vehicle under WMATC authority, and no carrier shall permit a person to operate a motor vehicle under WMATC authority, without for-hire license plates."

Commission Regulation Nos. 64-02(b) and 64-01 operate in tandem to prohibit a carrier's use of a vehicle to transport passengers for hire unless that vehicle has passed a safety inspection within the preceding 12 months. WMATC Regulation No. 64-02(b), which applies to vehicles seating eight or fewer persons, including the driver, provides that, "[n]o person shall operate a vehicle, and no carrier shall permit a person to operate a vehicle, that . . . has not passed a for-hire motor vehicle safety inspection conducted by the District of Columbia or one of the fifty states within the preceding twelve months." Regulation No. 64-01, which applies to vehicles seating nine persons or more, including the driver, incorporates Part 396 of the Federal Motor Carrier Safety Regulations. Part 396, in turn, provides that "[a] motor carrier must not use a commercial motor vehicle . . . unless each component identified in appendix G of this subchapter has passed an inspection in accordance with the terms of this section at least once during the preceding 12 months and documentation of such inspection is on the vehicle."¹

¹ 49 C.F.R. § 396.17(c) (2016).

II. BACKGROUND

Respondent filed its 2017 WMATC annual report on January 19, 2017. Section 6 of the annual report form prompts each carrier to provide a list of revenue vehicles used in WMATC operations. Respondent's vehicle list contained 17 vehicles, 11 of which had license plates in a format indicating the vehicles were not registered in a for-hire vehicle registration class, in apparent violation of Regulation No. 64-04. Accordingly, on August 17, 2017, staff issued a letter directing respondent to file by September 18, 2017, an updated list of revenue vehicles, copies of current for-hire registration cards for those vehicles, and a safety inspection certificate, dated within the previous 12 months, for each vehicle.

Respondent filed an initial written response on October 4, 2017. As supplemented, the response includes an updated vehicle list containing 22 vehicles, but respondent has furnished for-hire vehicle registration cards for only 8 of its reported vehicles and current safety inspection certificates for only 7 of its reported vehicles. In addition, respondent produced two additional registration cards, one for-hire and one not for-hire, for two additional vehicles registered to respondent and not included on its vehicle list. Respondent did not account for these vehicles or explain why they were omitted from its vehicle list.

III. COMMISSION POWERS

Proceedings may be instituted by the Commission, upon complaint or upon its own motion, by the issuance of an order to show cause, an order of investigation, or other appropriate order.²

The Commission may investigate to determine whether a person has violated or will violate a provision of the Compact or a rule, regulation, or order.³ For the purpose of an investigation or other proceeding under the Compact, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.⁴ The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.⁵

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

² Regulation No. 9-02.

³ Compact, tit. II, art. XIII, § 1(c).

⁴ Compact, tit. II, art. XIII, § 1(e).

⁵ Compact, tit. II, art. XII, § 1(b).

more than \$5,000 for any subsequent violation.⁶ Each day of the violation constitutes a separate violation.⁷

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁸ The term "willfully" does not mean with evil purpose or criminal intent.⁹ Rather, it describes conduct marked by careless disregard whether or not one has the right so to act.¹⁰ Employee negligence is no defense.¹¹

Furthermore, 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.¹²

If the Commission finds that a respondent has violated a provision of the Compact or any requirement established under it, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.¹³

IV. ORDER TO SHOW CAUSE

Respondent will be given 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, or suspend or revoke Certificate No. 206, for knowingly and willfully violating Commission Regulation Nos. 64-04, 64-01, and 64-02(b). Respondent will also be directed to bring its vehicles into compliance with those regulations.

THEREFORE, IT IS ORDERED:

1. That the Commission hereby initiates this investigation under Article XIII, Section 1, of the Compact.

2. That respondent shall have 30 days from the date of this order to show cause why the Commission should not assess a civil forfeiture, or suspend or revoke Certificate No. 206, for knowingly and willfully violating Regulation Nos. 64-04, 64-01, and 64-02(b).

3. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds

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

⁷ Compact, tit. II, art. XIII, § 6(f)(ii).

⁸ *In re Voca Corp. of Wash., D.C.*, No. MP-03-30, Order No. 7119 (Apr. 8, 2003).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Compact, tit. II, art. XI, § 10(c).

¹³ Compact, tit. II, art. XIII, § 1(d).

for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

4. That respondent is hereby directed to immediately bring its vehicles into compliance with Commission Regulation Nos. 64-04, 64-01, and 64-02(b).

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