

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,338

IN THE MATTER OF: Served December 5, 2017

NATIONWIDE PATIENT TRANSPORT,) Case No. MP-2017-015
L.L.C., Trading as DMV PATIENT)
TRANSPORT, Suspension and)
Investigation of Revocation of)
Certificate No. 2378)

NATIONWIDE PATIENT TRANSPORT,) Case No. MP-2017-120
L.L.C., Trading as DMV PATIENT)
TRANSPORT, Suspension and)
Investigation of Revocation of)
Certificate No. 2378)

Application of NATIONWIDE PATIENT) Case No. AP-2017-173
TRANSPORT, L.L.C., Trading as DMV)
PATIENT TRANSPORT, for Voluntary)
Termination of Certificate No. 2378)

The above-captioned cases are being consolidated for the purpose of determining whether Certificate of Authority No. 2378 shall be terminated, and if so, whether by revocation or voluntary termination.

I. BACKGROUND

A. Case No. MP-2017-015

Certificate No. 2378 was automatically suspended on February 6, 2017, when the \$1.5 million primary WMATC Insurance Endorsement on file for Nationwide Patient Transport, L.L.C., trading as DMV Patient Transport, (respondent), terminated without replacement. Order No. 16,834, served February 6, 2017, noted the automatic suspension of Certificate No. 2378 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 2378, 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. 2378.

Respondent failed to respond, and Certificate No. 2378 was revoked on March 15, 2017, in Order No. 16,883. The certificate was later reinstated on April 13, 2017, in Order No. 16,945, following respondent's request for reconsideration on April 13, 2017, which was supported by the necessary WMATC Insurance Endorsement and payment of the \$100 late fee.

However, because the effective date of respondent's replacement WMATC Endorsement was March 17, 2017, instead of

February 6, 2017, the reinstatement order gave respondent 30 days to submit a statement verifying cessation of operations as of February 6, 2017, and produce copies of respondent's business records for the period November 1, 2016, to April 13, 2017, in accordance with Regulation No. 58-14(a).

Respondent submitted the statement of its managing member, Shataa Whittle on May 15, 2017. Ms. Whittle stated that for medical reasons, she "was not working the month of February" and had not resumed operations as of the date of her statement. The statement also asserted that Ms. Whittle requested proof from one of her clients that she did not conduct any operations during February, but the client did "not have anything" to provide. Respondent did not produce any business records.

Order No. 17,183, served September 1, 2017, noted that records obtained from respondent's insurance company indicated that respondent was in possession of two vehicles immediately prior to the suspension of Certificate No. 2378 and that seven drivers other than Ms. Whittle were authorized to operate those vehicles. Order 17,183 further noted that Ms. Whittle's statement was problematic because it did not address whether respondent continued operations with these vehicles and drivers and because it was not supported by any of respondent's business records known to exist. For example, respondent produced none of the bank statements for the bank account used to pay the \$100 late fee in this proceeding and none of the monthly client reports that Ms. Whittle acknowledges receiving.

Accordingly, Order No. 17,183 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. 2378. Respondent failed to respond to Order No. 17,183.

B. Case No. MP-2017-120

While the show cause order was pending in Case No. MP-2017-015, the replacement WMATC Insurance Endorsement filed in that case terminated without replacement on September 3, 2017.

Order No. 17,188, served September 5, 2017, noted the automatic suspension of Certificate No. 2378 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 2378, 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. 2378. Respondent paid the late fee on September 18, 2017, but has yet to file a replacement insurance endorsement.

C. Case No. AP-2017-173

While the first two cases were pending, respondent filed an application on September 18, 2017, seeking voluntary termination of Certificate No. 2378.

II. DENIAL OF VOLUNTARY TERMINATION

The Commission may terminate a certificate of authority under Title II of the Compact, Article XI, Section 10(b), upon application by the holder. The Commission will not approve such an application, however, if the carrier is not in good standing.¹

Because Nationwide Patient Transport, L.L.C., trading as DMV Patient Transport, has not produced any of the business records required by Order No. 16,945 in Case No. MP-2017-015 and has offered no explanation for failing to do so, we find that applicant is not in good standing and accordingly shall deny the application for voluntary termination.²

III. ASSESSMENT OF FORFEITURE 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.³

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.⁴

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

Because respondent has failed to produce any records relevant to the Commission's investigation in Case No. MP-2017-015 as directed by Order No. 16,945, and has offered no explanation for failing to do so, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250.⁷

¹ *In re Superior Transit Ltd., t/a Youngtimers Transit & Kool Kids Transp.*, No. AP-12-240, Order No. 13,608 (Nov. 29, 2012).

² See *In re Royal Airport Shuttle, Inc.*, No. AP-07-110, Order No. 10,608 (July 5, 2007) (declaring carrier not in good standing for failing to produce business records and denying voluntary termination).

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

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re JEB Transp. Servs., LLC*, No. MP-16-202, Order No. 17,028 (May 31, 2017); *In re Medical Transp. Sys. (MTS) LLC*, No. MP-16-121, Order No. 16,764 (Dec. 23, 2016); *In re AJ Enters. LLC*, No. MP-15-117, Order No. 15,918 (Oct. 21, 2015).

⁶ Order Nos. 17,028, 16,764, & 15,918.

⁷ See Order Nos. 17,028, 16,764, & 15,918 (assessing \$250 for failing to produce business records).

And for those reasons and because respondent has yet to replace the WMATC Insurance Endorsement that terminated September 3, 2017, in Case No. MP-2017-120, we find that respondent has failed to show cause why the Commission should not revoke Certificate No. 2378.⁸

THEREFORE, IT IS ORDERED:

1. That Case Nos. MP-2017-015, MP-2017-120, and AP-2017-173 are hereby consolidated pursuant to Commission Rule No. 20-02.

2. That the voluntary termination application in Case No. AP-2017-173 is hereby denied.

3. 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. 16,945 by failing to produce business records as directed.

4. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 2378 is hereby revoked for respondent's willful failure to comply with Regulation No. 58-14(a) and Order No. 16,945, by failing to produce business records as directed, and for respondent's willful failure to comply with Regulation No. 58-03 by failing to replace the \$1.5 million primary WMATC Insurance Endorsement that terminated September 3, 2017.

5. 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. 2378 to the Commission.

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



William S. Morrow, Jr.
Executive Director

⁸ See Order No. 17,028 (revoking authority for failing to produce business records and failing to replace WMATC Endorsement); Order No. 16,764 (revoking authority for failing to produce business records); Order No. 15,918 (same); Order No. 13,608 (revoking authority for failing to replace WMATC Endorsement).