

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,610

IN THE MATTER OF:

Served May 10, 2018

Application of HIRE QUALITY, INC., )  
for a Certificate of Authority -- )  
Irregular Route Operations )

Case No. AP-2018-054

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

This is applicant's third application. Applicant was granted operating authority in March of last year, but the issuance of a certificate of authority was expressly made contingent on applicant filing additional documents and passing a vehicle inspection conducted by Commission staff.<sup>1</sup> Applicant failed to satisfy the conditions for issuance of operating authority within the time allotted, thereby voiding the Commission's approval.<sup>2</sup> The second application was dismissed in December.<sup>3</sup>

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.

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, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

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<sup>1</sup> See *In re Hire Quality, Inc.*, No. AP-17-023, Order No. 16,885 (Mar. 16, 2017) (conditionally granting Certificate No. 3006).

<sup>2</sup> See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66 (failure to comply with conditions of grant within 180 days voids approval).

<sup>3</sup> *In re Hire Quality, Inc.*, No. AP-17-226, Order No. 17,369 (Dec. 22, 2017).

Normally, such evidence would establish an applicant's fitness,<sup>4</sup> but in this case there is evidence of applicant's violation of WMATC Regulation No. 63-04.

**I. VIOLATION OF REGULATION NO. 63-04**

Commission Regulation No. 63-04(a), provides that:

No carrier regulated by the Commission or subject to such regulation shall advertise or hold itself out (a) to perform transportation or transportation-related services within the Metropolitan District unless such transportation or transportation-related services are authorized by the Commission.

The record shows that on March 6, 2018, the following advertisements appeared on applicant's website, [www.hqlimo.com](http://www.hqlimo.com):

HQ understands you have a budget, and we offer several cost-effective suggestions to ensure all your transportation needs, especially shuttle services, are handled most effectively, skillfully, and economically. HQ offers an advanced fleet of shuttles that operate using the latest, most innovative scheduling & dispatching technology to help ensure you are provided with on-time and consistent shuttle services in and around the Washington DC Metropolitan area.

For the past 19 years, Hire Quality has been privileged to serve the Washington, D.C., Baltimore, Maryland, and Virginia. Hire Quality's fleet of newer vehicles is one of the most extensive and up-to-date of any transportation company in the area. Our highly trained team of chauffeurs help us provide reliable, on-time service to help our clients keep up with their busy and demanding schedules. Hire Quality offers transportation solutions for groups of any size. HQ not only offers incredible value for our clientele but our exceptional reputation has earned our company many opportunities to form long-term contracts from our clients. Whether we are providing transportation to government agencies or organizations of any size, our goal to provide top-level service on every trip while we work to earn your trust.

The advertised fleet included sedans, vans, minibuses, and motor coaches.

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<sup>4</sup> *In re US Limo World Inc.*, No. AP-16-222, Order No. 16,895 at 2 (Mar. 21, 2017); *In re Health Transp. Servs., LLC/Ring & Ride, LLC*, No. AP-13-317, Order No. 15,051 at 2 (Sept. 12, 2014).

Applicant asserts that it uses "accredited, licensed" carriers in those jurisdictions where applicant lacks operating authority, but that is not what applicant's website advertised on March 6, 2018. It should be noted, however, that when this was brought to applicant's attention, applicant promptly altered its website so as not to create the impression that it was holding itself out as a carrier licensed to transport passengers for hire in the Metropolitan District.

## **II. ASSESSMENT OF FORFEITURE**

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>5</sup>

"Knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>6</sup> "Willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard whether or not one has the right so to act.<sup>7</sup> "To hold carriers not liable for penalties where the violations . . . are due to mere indifference, inadvertence, or negligence of employees would defeat the purpose of" the statute.<sup>8</sup>

We find that applicant knowingly and willfully violated Regulation No. 63-04(a) and accordingly assess a civil forfeiture of \$250.<sup>9</sup>

## **III. 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.<sup>10</sup>

Advertising WMATC service without a WMATC certificate of authority is a serious violation, but in this case it was not persistent in nature. And although there is no evidence of mitigating

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<sup>5</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>6</sup> Order Nos. 16,895 at 3; 15,051 at 3.

<sup>7</sup> Order Nos. 16,895 at 3; 15,051 at 3.

<sup>8</sup> *United States v. Illinois Cent. R.R.*, 303 U.S. 239, 243, 58 S. Ct. 533, 535 (1938).

<sup>9</sup> See Order No. 15,051 at 3 (assessing \$250 forfeiture for violating Reg. No. 63-04).

<sup>10</sup> Order Nos. 16,895 at 4; 15,051 at 3-4.

circumstances, the Commission has approved applications in the past where there was evidence of unlawful advertising but not unlawful operations.<sup>11</sup>

Upon payment of the forfeiture assessed herein, the record will support a finding of prospective compliance fitness, subject to a one-year period of probation.<sup>12</sup>

Therefore, based on the evidence in this record, and in consideration of the terms of probation and other conditions prescribed herein, the Commission finds that the proposed transportation is consistent with the public interest and that 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.

In closing, the Commission notes that applicant's vice president and 49% shareholder, Mert Onal, is president and sole shareholder of Z Best Limousine Service, which has applied for a WMATC certificate of authority in Case No. AP-2018-023.<sup>13</sup>

Applicant is admonished to keep its assets, books, finances and operations completely separate from those of Z Best Limousine Service. This decision should not be construed as permission to share revenue vehicles or operating authority.<sup>14</sup>

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against applicant in the amount of \$250 for knowingly and willfully violating Regulation No. 63-04(a) on March 6, 2018.

2. That applicant is hereby directed to pay to the Commission within 30 days of the date of this order, by check or money order, the sum of two hundred fifty dollars (\$250).

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<sup>11</sup> See e.g., Order No. 16,895; Order No. 15,051; *In re Utour, LLC*, No. AP-11-026, Order No. 12,800 (Apr. 8, 2011); *In re Haymarket Transp., Inc.*, No. AP-08-181, Order No. 11,873 (Mar. 4, 2009).

<sup>12</sup> See Order No. 16,895 (approving application on similar record); Order No. 15,051 (same) Order No. 12,800 (same); Order No. 11,873 (same).

<sup>13</sup> In the absence of any evidence indicating that as of the date this application was filed, either applicant or Z Best Limousine Service was operating in the Metropolitan District or had a control relationship with a carrier operating in the Metropolitan District, this application is not subject to common control analysis under Article XII, Section 3, of the Compact. *In re Upscale Limo. Serv. LLC*, No. AP-08-142, Order No. 11,644 (Oct. 24, 2008) (citing *In re VIP Coach Servs., Inc., & White House Sightseeing Corp.*, No. AP-84-06, Order No. 2550 at 4-5 (May 1, 1984)).

<sup>14</sup> Order No. 11,644.

3. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 3006 shall be issued to Hire Quality, Inc., 10 Dover Road, N.E., Glen Burnie, MD 21060-6508.

4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

5. That applicant is hereby directed to file the following documents and present its revenue vehicle(s) for inspection within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; and (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia.

6. That applicant shall be placed on probation for a period of one year commencing with the issuance of a certificate of authority in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant, or any person controlling, controlled by, or under common control with applicant, during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

7. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

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



William S. Morrow, Jr.  
Executive Director