

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,686

IN THE MATTER OF:

Served June 20, 2018

Application of ANGEL LOVING CARE 1)
INC. for a Certificate of Authority)
-- Irregular Route Operations)

Case No. AP-2018-053

This matter is before the Commission on applicant's response to Order No. 17,523, served March 30, 2018, which dismissed this proceeding for applicant's failure to comply with the Commission's application requirements. Applicant has filed a request to reopen this proceeding.

I. CAUSE FOR DISMISSAL AND GROUNDS FOR REOPENING

Under the Compact, an application to obtain a certificate of authority shall be made in writing, verified, and shall contain the information required by the application form and accompanying instructions.¹ An applicant may be required to furnish any supplemental information necessary for a full and fair examination of the application.² Failure to comply with the Commission's application requirements warrants dismissal.³

By email sent March 13, 2018, applicant was required to furnish supplemental information on or before March 27, 2018, pursuant to Commission Regulation No. 54-04(b). Applicant submitted some of the required information but failed to produce certain business records. Accordingly, the application was dismissed March 30, 2018.

On April 3, 2018, applicant filed a request to reopen this proceeding. The request is accompanied by said business records. For good cause shown, this proceeding shall be reopened under Commission Rule No 26.⁴

II. APPLICATION

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a

¹ Compact, tit. II, art. XI, § 8; Regulation No. 54-02.

² Regulation No. 54-04(b).

³ *In re One, LLC, t/a Bon Voyage*, No. AP-04-103, Order No. 8212 (Aug. 5, 2004).

⁴ *See In re Abdelrazig Hassan Shawkat*, No. AP-13-076, Order No. 13,865 (Apr. 12, 2013) (same).

seating capacity of less than 16 persons only, including the driver. 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.

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.

Normally, such evidence would establish an applicant's fitness,⁵ but this applicant has a history of regulatory violations.

A. History of Violations

Applicant held WMATC Certificate of Authority No. 2465 from May 30, 2014, until June 2, 2015, when it was revoked for applicant's failure to maintain a WMATC Insurance Endorsement on file with the Commission as required by Regulation No. 58 and for applicant's failure to pay a \$100 late insurance fee.⁶

Applicant paid the late fee and submitted a request for administrative reconsideration on June 30, 2015, but the request was not supported by an acceptable WMATC Insurance Endorsement and later lapsed by operation of law pursuant to Article XIII, Section 4(c), of the Compact.

The revocation order gave applicant 30 days to surrender Certificate No. 2465 and file a notarized affidavit and supporting photograph(s) verifying removal of WMATC markings from applicant's vehicle(s). Applicant did not comply.

Applicant eventually submitted the affidavit and photos and surrendered Certificate No. 2465 a year later in June 2016 during the course of pursuing an application for WMATC authority that later was

⁵ *In re Metro Transcare LLC*, No. AP-17-047, Order No. 17,193 at 2 (Sept. 8, 2017).

⁶ *In re Angel Loving Care 1 Inc.*, No. MP-15-057, Order No. 15,637 (June 2, 2015).

dismissed in part for applicant's failure to furnish the same business records that applicant initially failed to produce in this proceeding.⁷

B. 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

Applicant's failure to maintain compliance with Regulation No. 58 warranted revocation of Certificate No. 2465, and applicant's failure to surrender Certificate No. 2465 and submit the aforesaid affidavit and photos persisted for a year. On the other hand, applicant has confirmed timely cessation of WMATC operations in 2015 and continuous abstention since then. Applicant's confirmation is corroborated by copies of applicant's pertinent business records.

The Commission has found other applicants fit under similar circumstances.⁹ Applicant shall serve a one year period of probation as a means of ensuring prospective compliance.¹⁰

C. Conclusion

Based on the evidence in this record, and considering 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.

THEREFORE, IT IS ORDERED:

1. That this proceeding is hereby reopened under Commission Rule No 26.

2. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 2465 shall be

⁷ See *In re Angel Loving Care 1 Inc.*, No. AP-16-058, Order No. 16,399 (June 2, 2016) (dismissing for failure to respond).

⁸ Order No. 17,193 at 3.

⁹ See *id.* (timely cessation of operations and removal of vehicle markings); *In re Zion Found. for Citizens, Inc., t/a Zion Transp. Servs.*, No. AP-13-422, Order No. 14,606 (Feb. 26, 2014) (same).

¹⁰ See Order No. 17,193 (same); Order No. 14,606 (same).

reissued to Angel Loving Care 1 Inc., 9831 Greenbelt Road, #103, Lanham, MD 20706-6224.

3. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate No. 2465 has been reissued in accordance with the preceding paragraph.

4. 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.

5. That applicant shall be placed on probation for a period of one year commencing with the reissuance of Certificate No. 2465 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 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.

6. 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