

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,758

IN THE MATTER OF:

Served August 9, 2018

Application of TSTG, LLC, Trading)
as TNT TRANSPORTATION, for a) Case No. AP-2018-084
Certificate of Authority --)
Irregular Route Operations)

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 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,¹ but this applicant has a history of regulatory violations.

I. HISTORY OF VIOLATIONS

Applicant previously held Certificate No. 2147 from July 16, 2013, until November 22, 2016, when it was revoked for applicant's failure to comply with Article XI, Section 5, of the Compact and Order No. 16,538.²

¹ *In re Nick & Frank Stein LLC*, No. AP-12-202, Order No. 13,598 (Nov. 27, 2012).

² *See In re TSTG, LLC, t/a TNT Transp.*, No. MP-16-151, Order No. 16,697 (Nov. 22, 2016).

Under Article XI, Section 5(a), each authorized carrier is required to "provide safe and adequate transportation service, equipment, and facilities." Certificate No. 2147 was revoked because applicant, a limited liability company formed under the laws of Maryland, was found not to be in good standing with the Maryland Department of Assessments and Taxation (MDAT), which meant that applicant no longer possessed the intrinsic legal capacity to transact business beyond the minimum acts necessary for liquidating assets and winding up one's affairs, which in turn rendered applicant unable to lawfully perform transportation services under a WMATC Certificate of Authority in accordance with Article XI, Section 5, of the Compact.³

The revocation order, Order No. 16,697, gave applicant 30 days to: (1) remove from its vehicles the identification markings placed thereon pursuant to Commission Regulation No. 61; (2) file a notarized affidavit with the Commission verifying removal; and (3) surrender Certificate No. 2147 to the Commission. Applicant did not comply.

II. LIKELIHOOD OF FUTURE COMPLIANCE

When an applicant has a record of violations, 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 applicant has made sincere efforts to correct past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁴

Applicant's violation of Article XI, Section 5, of the Compact was serious enough to warrant revocation. But applicant has since revived its corporate status, as evidenced by a certificate of good standing from MDAT. Thus, applicant has corrected the deficiency that led to revocation of its certificate in 2016.

The application also is supported by a signed statement confirming that applicant's vehicles did not display WMATC markings due to a waiver of the marking requirements and explaining that Certificate No. 2147 was destroyed in a flood. There is no evidence of post-revocation operations in the record. The Commission has found other applicants fit under similar circumstances.⁵

³ See *id.*

⁴ Order No. 13,598.

⁵ See Order No. 13,598 (paid outstanding late fees, surrendered Certificate of Authority, confirmed removal of vehicle markings, and no evidence of post-suspension operations in record); *In re William Korblah Ayenson, t/a Minuteman Med. Transp. Servs.*, No. AP-11-014, Order No. 12,795 (Apr. 8, 2011) (paid outstanding late fees, accounted for vehicle markings and Certificate of Authority, and verified cessation of operations with no evidence to the contrary); *In re Felicia Medlock, t/a I Get Around the DMV Shuttle*,

We further note that the Commission recently approved three other applications involving antecedent violations of Article XI, Section 5. The applications in question grew out of the multi-carrier proceeding in 2016 that resulted in the revocation of applicant's operating authority. Instead of producing certificates of good standing to avoid suspension or revocation, the officers and/or owners of three of the carriers in the 2016 proceeding each adopted an alternative strategy of forming a new carrier and causing the new carrier to file an application seeking either a transfer of the suspended/revoked affiliate's certificate of authority or the issuance of a new one. The Commission approved all three applications on the strength of each new carrier having submitted its own certificate of good standing and on the condition, among others, that each new carrier serve a one-year period of probation.⁶

III. CONCLUSION

Based on the evidence in this record, 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. Applicant, however, shall serve a one year period of probation as a means of ensuring prospective compliance.⁷

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 2147 shall be issued to TSTG, LLC, trading as TNT Transportation, 8473 Greenbelt Road, #102, Greenbelt, MD 20770-2536.

2. 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.

3. 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,

No. AP-10-082, Order No. 12,512 (Aug. 19, 2010) (same); *In re Voneva Inc.*, No. AP-09-107, Order No. 12,240 (Dec. 1, 2009) (same).

⁶ *In re Tabi Club Int'l L.L.C.*, No. AP-16-205, Order No. 16,839 (Feb. 15, 2017); *In re Miles Away Charter, LLC*, No. AP-16-156, Order No. 16,747 (Dec. 15, 2016); *In re A-Fair Transp. Inc.*, No. AP-16-158, Order No. 16,725 (Dec. 7, 2016).

⁷ See, e.g., Order No. 13,598 (same); Order No. 12,795 (same); Order No. 12,512 (same); Order No. 12,240 (same).

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.

4. That applicant shall be placed on probation for a period of one year commencing with the reissuance 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 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.

5. 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