

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,796

IN THE MATTER OF:

Served September 10, 2018

Application of WHEELS ON THE GO)
TRANSPORTATION LLC for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2018-028

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. If the applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.¹ A determination of compliance fitness is prospective in nature.² The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.³ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁴

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

¹ *In re Adepeju Akinto, t/a Advantage Servs.*, No. AP-13-368, Order No. 14,601 (Feb. 26, 2014).

² *Id.*

³ *Id.*

⁴ *Id.*

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 applicant's sole Governor has a history of controlling a carrier with regulatory violations.

I. HISTORY OF VIOLATIONS

According to records obtained from the District of Columbia Department of Consumer and Regulatory Affairs, (DCRA), Ms. Tanay Gross is applicant's sole Governor and registered agent. Although Ms. Gross is not among the officers disclosed by applicant, the DCRA records speak for themselves.

According to WMATC records, Ms. Gross was the owner of DSC Transportation, LLC, when its WMATC Certificate No. 2855 was revoked in 2016 for DSC's failure to maintain compliance with WMATC insurance requirements and failure to pay a \$100 late insurance fee.⁶ The revocation order directed DSC to surrender Certificate No. 2855 and submit an affidavit and supporting photograph(s) verifying removal of WMATC markings from DSC's vehicle(s).⁷ DSC did not comply.

II. 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

The violations that occurred under Ms. Gross at DSC were serious enough to merit revocation, and Ms. Gross's failure to ensure DSC's compliance with the revocation order persists to this day.

There are no mitigating circumstances and no evidence that Ms. Gross has made any effort to correct past mistakes.

⁵ *Id.*

⁶ *In re DSC Transp., LLC*, No. MP-16-107, Order No. 16,473 (July 12, 2016).

⁷ *Id.*

⁸ Order No. 14,601.

III. CONCLUSION

On this record, we cannot say that applicant has established regulatory compliance fitness.⁹

THEREFORE, IT IS ORDERED: that the application of Wheels On The Go Transportation LLC for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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



William S. Morrow, Jr.
Executive Director

⁹ See *id.* (denying application where carrier controlled by applicant still not in compliance with revocation order).