

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,878

IN THE MATTER OF:

Served October 23, 2018

EX SEDAN INC., Suspension and)
Investigation of Revocation of)
Certificate No. 2629)

Case No. MP-2018-032

This matter is before the Commission on respondent's response to Order No. 17,702, served July 2, 2018.

I. BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 2629 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 2629 was rendered invalid on March 23, 2018, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 17,509, served March 23, 2018, noted the automatic suspension of Certificate No. 2629 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 2629, and gave respondent 30 days to replace the terminated endorsement and pay a \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 2629.

Respondent did not respond, and Certificate No. 2629 was revoked in Order No. 17,580 on April 25, 2018, pursuant to Regulation No. 58-15(a). Respondent thereafter submitted the necessary WMATC Insurance Endorsement, paid the late fee, and filed a timely application for reconsideration of Order No. 17,580, and Certificate of Authority No. 2629 was reinstated in Order No. 17,645, served May 29, 2018, in accordance with Regulation No. 58-15(b). However, because the effective date of the new endorsement is April 20, 2018, instead of

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

March 23, 2018, the order gave respondent 30 days in accordance with Regulation No. 58-14(a) to: (1) verify cessation of operations as of March 23, 2018; and (2) produce copies of respondent's pertinent business records from January 1, 2018, to May 29, 2018. Respondent produced neither a statement nor any business records.

II. ORDER TO SHOW CAUSE

Regulation No. 58-14(b) states that upon the failure of a carrier to comply timely with the requirements of Regulation No. 58-14(a), "the Executive Director shall issue an order directing the carrier to show cause why a civil forfeiture should not be assessed against the carrier and/or why the carrier's operating authority should not be suspended or revoked."

Pursuant to Regulation No. 58-14(b), Order No. 17,702 gave respondent until August 1, 2018, to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 2629. Respondent produced a statement in response, but the statement does not address whether respondent stopped operating as of March 23, 2018, and respondent still has produced no business records.

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 (1) failed to verify whether it ceased operating while suspended and underinsured from March 23, 2018, through April 19, 2018, and while properly insured but still suspended from April 20, 2018, through May 28, 2018; (2) failed to produce all relevant business records as required by Regulation No. 58-14(a) and

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

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re CAT Transp. Serv., LLC*, No. MP-18-081, Order No. 17,830 (Sept. 26, 2018).

⁶ *Id.*

directed by Order No. 17,645; and (3) offered no explanation for these failures; we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250⁷ and revoke Certificate No. 2629,⁸ without prejudice to respondent's right to reapply for operating authority after waiting 180 days from the date of this order.⁹

THEREFORE, IT IS ORDERED:

1. 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. 17,645.

2. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 2629 is hereby revoked for respondent's willful failure to comply with Regulation No. 58-14(a) and Order No. 17,645.

3. 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. 2629 to the Commission.

4. Respondent may reapply for operating authority after waiting 180 days from the date of this order.

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



William S. Morrow, Jr.
Executive Director

⁷ See *id.* (assessing \$250 for failing to produce verification and documents).

⁸ See *id.* (revoking authority for failing to produce verification and documents).

⁹ See *id.* (stipulating 180-day application waiting period in insurance gap case).