

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 18,432

IN THE MATTER OF:

Served October 16, 2019

ESPOIR LLC, Trading as ESPOIR,            )  
Suspension and Investigation of        )  
Revocation of Certificate No. 2985    )

Case No. MP-2019-015

This matter is before the Commission on the response of respondent to Order No. 18,044, served February 25, 2019.

**I. BACKGROUND**

Certificate No. 2985 was automatically suspended on February 20, 2019, pursuant to Regulation No. 58-12, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 18,041, served February 21, 2019, noted the automatic suspension of Certificate No. 2985, directed respondent to cease transporting passengers for hire under Certificate No. 2985, and gave respondent 30 days to replace the terminated endorsement and pay the \$100 late fee due under Regulation No. 67-3(c) or face revocation of Certificate No. 2985.

Respondent paid the late fee and submitted a \$1.5 million replacement WMATC Endorsement on February 22, 2019, and the suspension was lifted on February 25, 2019. However, because the effective date of the new endorsement was February 21, 2019, instead of February 20, 2019, thereby creating a one-day coverage gap, Order No. 18,044 directed respondent to verify cessation of operations as of February 20, 2019, as mandated by Regulation No. 58-14. The order further directed respondent to corroborate its verification with copies of respondent's pertinent business records from December 1, 2018, to February 25, 2019, also as contemplated by Regulation No. 58-14.

**II. RESPONSE TO ORDER NO. 18,044**

On March 7, 2019, as supplemented March 25, 2019, respondent produced statements of its president, Ambroise Agosse, and copies of various business records, including: (a) copies of respondent's trip logs for the period beginning February 7, 2019, and ending February 19, 2019; (b) copies of respondent's bank statements for the period beginning December 1, 2018, and ending February 28, 2019; and (c) copies of Uber trip reports for the period beginning November 30, 2018, and ending March 3, 2019.

The Uber trip reports produced by respondent contain entries showing 36 trips were performed for "Black" or Black SUV" service during the period from February 21, 2019, to February 24, 2019, including trips on each of those four days. Respondent's bank

statements reflect corresponding deposits from Uber and gasoline purchases within the Metropolitan District around this time. The reports do not contain any trip entries on February 20, 2019, a day when respondent was suspended and uninsured, and respondent denies operating on that date.

In assessing respondent's response, it is important to note that Commission precedent distinguishes between carriers operating without authority and without adequate insurance, on the one hand, and carriers operating without authority but with adequate insurance, on the other.<sup>1</sup> The Commission metes out stiffer sanctions for operating without adequate insurance.<sup>2</sup>

In this case, the record supports a finding that respondent operated on four days while Certificate No. 2985 was suspended but respondent was adequately insured.

### III. ORDER TO SHOW CAUSE

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>3</sup>

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.<sup>4</sup>

Considering that trip reports and other evidence in the record show passenger carrier operations in the Metropolitan District while Certificate No. 2985 was suspended, respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 2985, for knowingly and willfully conducting operations under a suspended certificate of authority.<sup>5</sup>

THEREFORE, IT IS ORDERED:

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<sup>1</sup> *In re Better Business Connection, Inc.*, No. MP-13-028, Order No. 15,486 at 23 (Apr. 2, 2015).

<sup>2</sup> *See id.* (assessing larger forfeiture and revoking authority for operating without sufficient insurance).

<sup>3</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>4</sup> Compact, tit. II, art. XI, § 10(c).

<sup>5</sup> *See In re Daniel M Manna, t/a Daniel Manna Limo. Serv.*, No. MP-14-027, Order No. 15,267 (Dec. 30, 2014) (directing carrier to show cause as to Uber operations in WMATC vehicles while suspended); *In re Dereje Bogale Worbelo, t/a Worbelo Limo Serv.*, No. MP-14-005, Order No. 15,133 (Oct. 21, 2014) (assessing forfeiture for Uber operations in WMATC vehicles while suspended notwithstanding gap closed).

1. That respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 2985, for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

2. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

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



Jeffrey M. Lehmann  
Executive Director