

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 18,562

IN THE MATTER OF:

Served December 16, 2019

Application of HANA BUSINESS GROUP)
INC. for a Certificate of Authority)
-- Irregular Route Operations)

Case No. AP-2018-071

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

This is the second application filed by this applicant. Applicant applied for operating authority in 2017, but the application was dismissed without prejudice for want of prosecution.¹

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.² A determination of compliance fitness is prospective in nature.³ The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.⁴ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁵

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

¹ *In re Hana Bus. Grp. Inc.*, No. AP-17-183, Order No. 17,361 (Dec. 18, 2017).

² *In re George Towne Trolley Tours & Transp. LLC*, No. AP-17-135, Order No. 17,335 (Dec. 5, 2017).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

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,⁶ but applicant's sole officer and shareholder, Muhammad Ashraf, is associated with three companies with a history of regulatory violations, Victorious, Inc., trading as Nationwide Limo Service (Victorious), Nationwide Chauffeured Services LLC (Nationwide Chauffeured), and Nationwide Sedan Services LLC (Nationwide Sedan).

I. HISTORY OF VIOLATIONS

According to Commission records, Victorious held WMATC Certificate No. 1491 from August 7, 2008, to June 7, 2016, when it was revoked for failure to file a 2016 annual report.⁷ The revocation order stipulated that the annual report would remain due and directed Victorious to remove the identification markings from its vehicles, file an affidavit and supporting photographs verifying removal of those markings, and surrender Certificate No. 1491 within 30 days. Victorious has yet to respond.

Nationwide Chauffeured held WMATC Certificate No. 2588 from October 30, 2015, to October 25, 2016, when it was revoked for Nationwide Chauffeured's willful failure to maintain compliance with the Commission's insurance requirements in Regulation No. 58 and willful failure to pay a \$100 late fee in accordance with Regulation No. 67-03(c).⁸ The revocation order stipulated that the \$100 late fee would remain due and directed Nationwide Chauffeured to remove the identification markings from its vehicles, file an affidavit and supporting photographs verifying removal of those markings, and surrender Certificate No. 2588 within 30 days. Nationwide Chauffeured belatedly responded nine months later, on August 11, 2017. Since Certificate No. 2588 was revoked, Nationwide Chauffeured has submitted three applications for a certificate of authority, but each was dismissed for failure to respond to a Commission request for additional information necessary for a full and fair determination of the application.⁹

⁶ *Id.*

⁷ *In re Victorious Inc., t/a Nationwide Limo Serv.,* No. MP-16-057, Order No. 16,409 (June 7, 2016).

⁸ *In re Nationwide Chauffeured Servs. LLC,* No. MP-16-160, Order No. 16,650 (Oct. 25, 2016).

⁹ *See In re Nationwide Chauffeured Servs. LLC,* No. AP-17-055, Order No. 16,939 (Apr. 12, 2017); *In re Nationwide Chauffeured Servs. LLC,*

Nationwide Sedan held WMATC Certificate No. 2605 from April 19, 2015, to October 25, 2016, when it was revoked for Nationwide Sedan's willful failure to maintain compliance with the Commission's insurance requirements in Regulation No. 58 and willful failure to pay a \$100 late fee in accordance with Regulation No. 67-03(c).¹⁰ Nationwide Sedan was likewise directed to remove the identification markings from its vehicles, file an affidavit and supporting photographs verifying removal of those markings, and surrender Certificate No. 2605 within 30 days. Nationwide Sedan has yet to respond.

This history takes on added significance in light of certain subsequent events. On January 20, 2017, the day of the presidential inauguration, a stretch limousine was set on fire by protesters in downtown Washington. Published photographs of the burning vehicle show it displayed "WMATC 2605," Nationwide Sedan's WMATC number, despite the fact that the Commission's revocation orders directed Nationwide Sedan and Nationwide Chauffeured to remove the WMATC vehicle identification markings from all vehicles on or before November 25, 2016.¹¹

The fire received widespread media coverage. According to an Associated Press article published on the Fox News website January 24, 2017:

Ashraf said his family-owned business, based in Alexandria, Virginia, has a fleet of approximately 30 limousines, party buses and other vehicles and has been in business for 25 years. He called the limousine's destruction "a very sad situation." He said the limousine was one of two vehicles of that kind owned by the company and was in heavy demand around the inauguration.

A Washington Times article published January 24, 2017, stated "Muhammad Ashraf owns Nationwide Chauffeured Services in Northern Virginia." A Washington Post article published January 25, 2017, identified Muhammad Ashraf as "president of Nationwide Chauffeured Services in Alexandria, Va" and attributed to Ashraf a statement that the company routinely drove President Trump for two to three years before his presidential campaign and that the President was always very generous.

No. AP-17-150, Order No. 17,294 (Nov. 7, 2017); *In re Nationwide Chauffeured Servs. LLC*, No. AP-18-140, Order No. 17,785 (Aug. 30, 2018).

¹⁰ *In re Nationwide Sedan Servs. LLC*, No. MP-16-161, Order No. 16,651 (Oct. 25, 2016).

¹¹ Because the 30th day after Order Nos. 16,650 and 16,651 were issued was November 24, 2016, a federal holiday, pursuant to WMATC Rule No. 7-01, Nationwide Chauffeured and Nationwide Sedan had until the following business day to comply.

This event, of which we take official notice pursuant to Rule No. 22-07, shows that Nationwide Chauffeured and Nationwide Sedan violated Commission orders by failing to remove vehicle markings¹² and that one or both companies transported passengers within the Metropolitan District after their certificates of authority were revoked.

We also note that the website www.nationwidecar.com, which expressly refers to the inauguration day fire of "our beautiful Stretch Limo," currently advertises passenger transportation requiring a WMATC Certificate of Authority on behalf of Nationwide Chauffeured Services, in violation of WMATC Regulation No. 63-04.

II. COMMON CONTROL

For the purposes of this proceeding, "[t]he term 'control' means more than mere legal control; it encompasses every type of control in fact; all pertinent facts and circumstances are considered."¹³ "A presumption of common control arises where an officer of one carrier is closely related to an officer of another carrier."¹⁴

In a signed statement, Mr. Ashraf states that Victorious "was wholly owned and controlled by my brother, Chaudry Ali" and that "Nationwide Chauffeured Services" has been under the control of Mr. Ali since July 2016. Because applicant's sole owner and officer, Mr. Ashraf, is the brother of Mr. Ali, who controlled Victorious and controls Nationwide Chauffeured and Nationwide Sedan, there is a presumption that applicant is under common control with companies with a history of regulatory violations.

In correspondence pertaining to this application, the Commission asked applicant several questions to elicit the nature of the relationships of applicant and Mr. Ashraf with Nationwide Chauffeured and Nationwide Sedan in light of the facts recited above. Mr. Ashraf's statement says in part:

However, none of my brother's business affairs are legally identical to my business affairs. I

¹² Although the WMATC number displayed on the limousine during the presidential inauguration was assigned to Nationwide Sedan, the contemporaneously reported statements of Mr. Ashraf and the website www.nationwidecar.com attribute the operation of that vehicle to "Nationwide Chauffeured Services." The Commission asked applicant to clarify this discrepancy, but applicant did not directly address the issue. For purposes of this proceeding, we attribute this violation to both Nationwide Chauffeured and Nationwide Sedan.

¹³ *In re Ene Tours, LLC*, No. AP-18-029, Order No. 17,648 at 2 (June 1, 2018); *In re Wash. Shuttle, Inc., t/a SuperShuttle*, No. AP-96-13, Order No. 4801 at 2 (Mar. 28, 1996); *In re Peter Pan Bus Lines, Inc.*, No. AP-93-19, Order No. 4130 (July 12, 1993) (citations omitted).

¹⁴ Order No. 17,648; *In re Ontime Transp. Inc.*, No. AP-00-18, Order No. 5866 (Apr. 21, 2000).

did, as a matter of public relations, purport to have an interest in Nationwide Chauffeured Services at the time that one of its vehicles was vandalized during the presidential inauguration day. However, those statements, and the statements of reporter, are not the same as the actual legal facts under Virginia corporate and limited liability company law, which is that I did not have an interest in Nationwide Chauffeured Services either then or now. Neither newspaper reporting, nor relationship status, nor the identity of one's brother, should be confused with actual ownership and control of an entity under corporate and limited liability company law.

Mr. Ashraf's statement that he has never had an ownership interest in Nationwide Chauffeured Services and other passages stating he has "never held any legal position" at Nationwide Chauffeured or Nationwide Sedan provide some evidence tending to rebut a presumption of control, but several questions remain. A person unaffiliated with a company would not ordinarily inform third parties they were the owner and president of that company. When asked by the Commission to explain, Mr. Ashraf's stated it was "as a matter of public relations." While this answer is responsive, it stops short of fully clarifying the nature of the relationship between Mr. Ashraf and Nationwide Chauffeured or the circumstances that led him to assert ownership and control.

The Commission also asked applicant to explain why, given Mr. Ashraf's professed lack of ownership interest in Nationwide Chauffeured Services, Mr. Ashraf was familiar enough with its operations to say President Trump had been a client of the company "for two to three years" and that the President "was always very generous." Applicant did not directly respond to this question.

A certain level of candor is required of applicants for WMATC operating authority.¹⁵ Applicant's written statement fails to reach the level of disclosure expected of an applicant. Applicant has failed to adequately explain why Mr. Ashraf held himself out as the owner and president of Nationwide Chauffeured Services, if that is not in fact the case, and failed to adequately explain Mr. Ashraf's intimate familiarity with the client history of Nationwide Chauffeured Services if he was not involved in managing the operations of that company. The presumption of a control relationship is particularly warranted when, as in this case, a recent application for a certificate of authority filed by an entity linked to applicant has

¹⁵ *In re Maryma Trans LLC*, No. AP-15-134, Order No. 15,796 (Aug. 14, 2015); *In re Primus Metro, LLC*, No. AP-13-362, Order No. 14,600 (Feb. 26, 2014); *In re Diane Rena Prince*, No. AP-13-034, Order No. 14,076 at 3 (July 18, 2013); *In re Ready Eager Drivers Inc*, No. AP-12-003, Order No. 13,536 at 7 (Oct. 18, 2012).

been unsuccessful.¹⁶ Accordingly, on the basis of this record, we find that the presumption of a control relationship between applicant, on the one hand, and Nationwide Chauffeured and Nationwide Sedan, on the other, is not rebutted.

Applicant has indicated Mr. Ashraf's brother also controlled Victorious. The Commission did not raise the issue of a control relationship with Victorious in correspondence with applicant and applicant therefore did not have an adequate opportunity to address the issue. Having already found a control relationship between applicant and Nationwide Chauffeured and Nationwide Sedan, we need not decide whether a control relationship exists between applicant and Victorious.

III. 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.¹⁷

The failure of Nationwide Chauffeured and Nationwide Sedan to maintain compliance with Regulation No. 58 was serious enough to warrant revocation of Certificate Nos. 2588 and 2605. Furthermore, displaying Nationwide Sedan's WMATC number on a vehicle operated during a high profile event in the District of Columbia months after the Commission ordered Nationwide Chauffeured and Nationwide Sedan to remove such markings was a flagrant violation. Nationwide Chauffeured Services continues to advertise transportation services in the Washington Metropolitan Area on its website to this day, which is a persistent violation. Although Nationwide Chauffeured belatedly accounted for its vehicle markings and paid its late fee for failure to timely file proof of insurance in August 2017, Nationwide Sedan has yet to do so. Applicant has furnished no other evidence of mitigating circumstances or sincere efforts to correct these past mistakes. The Commission has denied other applications in the past under similar circumstances.¹⁸

¹⁶ See Order No. 17,648 at 3 (finding control relationship when applicant took steps towards submitting application two days after application by other entity was denied by the Commission).

¹⁷ Order No. 17,335 at 2.

¹⁸ See Order No. 17,648 (denying application by applicant under common control with previously revoked WMATC carrier that failed to remove vehicle markings and continued to advertise transportation service requiring a WMATC Certificate of Authority on website).

We also take official notice and duly consider that, according to the website of the Federal Motor Carrier Safety Administration, applicant's USDOT number has been deactivated for failure to file a biennial report and applicant's interstate passenger carrier operating authority was involuntarily revoked on October 1, 2018.

IV. CONCLUSION

On this record, we cannot say that applicant has carried its burden of establishing regulatory compliance fitness.

THEREFORE, IT IS ORDERED: that the application of Hana Business Group Inc. for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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



Jeffrey M. Lehmann
Executive Director