

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,246

IN THE MATTER OF:

Served February 8, 2021

Application of TERRAGRADE )  
TRANSPORTATION INC. for a ) Case No. AP-2020-082  
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. If an 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.<sup>1</sup> A determination of compliance fitness is prospective in nature.<sup>2</sup> The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.<sup>3</sup> Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.<sup>4</sup>

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

---

<sup>1</sup> *In re George Towne Trolley Tours & Transp. LLC*, No. AP-17-135, Order No. 17,335 (Dec. 5, 2017).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

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,<sup>5</sup> but this applicant has a history of regulatory violations and applicant has commingled its assets with those of two defunct corporations.

#### **I. HISTORY OF VIOLATIONS**

Applicant was issued WMATC Certificate of Authority No. 2289 on February 20, 2014, and last held authority on February 19, 2020, when it was revoked for applicant's failure to maintain a WMATC Insurance Endorsement on file with the Commission as required by Regulation No. 58 and for applicant's failure to pay a \$100 late insurance fee under Regulation No. 67.<sup>6</sup> The revocation order directed applicant to surrender its certificate and account for its vehicle markings within 30 days and also noted that the \$100 late insurance fee, unpaid \$175 annual fee for 2020, \$150 in associated late fees, and a \$25 dishonored payment fee would remain due. Applicant did not timely comply.

Prior to the events in 2020, Certificate No. 2289 was suspended two other times for insurance violations.<sup>7</sup> The first of these insurance proceedings resulted in revocation of Certificate No. 2289 for applicant's failure to maintain a WMATC Insurance Endorsement on file with the Commission as required by Regulation No. 58 and for applicant's failure to pay a \$100 insurance late insurance fee assessed under Regulation No. 67-03(c),<sup>8</sup> but the certificate was subsequently reinstated after applicant belatedly filed the necessary Endorsement and paid the fee.<sup>9</sup>

#### **II. COMMINGLING OF ASSETS**

The check submitted in payment of the filing fee for this application was drawn on the account of "Abreast Management Inc." According to the Maryland Department of Assessments and Taxation (MDAT) website, Abreast Management, Inc., was a Maryland corporation which was dissolved in February 2019. By email dated May 8, 2020, the Commission directed applicant to submit a signed statement describing applicant's

---

<sup>5</sup> *Id.*

<sup>6</sup> *In re Terragrade Transp. Inc.*, No. MP-20-013, Order No. 18,673 (Feb. 19, 2020).

<sup>7</sup> *In re Terragrade Transp. Inc.*, No. MP-16-027, Order No. 16,234 (Mar. 1, 2016); *In re Terragrade Transp. Inc.*, No. MP-19-108, Order No. 18,266 (July 11, 2019).

<sup>8</sup> *In re Terragrade Transp. Inc.*, No. MP-16-027, Order No. 16,279 (Apr. 1, 2016).

<sup>9</sup> *In re Terragrade Transp. Inc.*, No. MP-16-027, Order No. 16,294 (Apr. 6, 2016).

relationship to Abreast Management, Inc., and to explain why that entity paid the application filing fee on applicant's behalf.

Applicant's CEO, Abayomi Sokoya, responded in writing on May 15, 2020, as follows:

Abreast management was established in July of 2018 in which I was part of. However, due to some certain circumstances, my partner and I decided to have it resolved until we are fully ready to operate the entity while leaving the bank account open. On the other hand, Terragrade Transportation account was compromised in November and December of 2019 and I had to put a lock on the account and to verify any outgoing check with me first before payment . . . .

In view of this, while working on resolving the Terragrade Transportation account, I had to make the payment from Abreast Management Inc in order to move forward with the new application with WMATC.

By email dated August 24, 2020, the Commission directed applicant to do the following:

File with the Commission a signed statement explaining why approving this application would be consistent with the public interest when applicant is commingling assets with Abreast Management, Inc., a dissolved corporation that is not authorized to conduct business activities in Maryland. In the alternative, applicant may file proof that Abreast Management, Inc.'s bank account has been closed and a voided check showing that a bank account belonging to Terragrade Transportation Inc. has been established.

Mr. Sokoya responded in writing on September 8, 2020, as follows:

Abreast Management issued a check on behalf of Terragrade due to the accounting issues that Terragrade Transportation had then. However, Terragrade Transportation has successfully opened another account at Prince George's Community Federal Credit Union. (PGCFCU). In addition, Abreast Management Inc., is back in good standing.

However, MDAT records indicate that rather than reviving Abreast Management, Inc., Mr. Sokoya participated in forming a second, identically named Maryland corporation on August 29, 2020. MDAT records further show that the second corporation's corporate status stands forfeited as of September 8, 2020, and its articles of incorporation were voided for non-payment of a filing fee.

Applicant has submitted no evidence showing that the checking account of Abreast Management, Inc., has been closed.

### **III. REPORTING OF VEHICLES**

On May 15, 2020, Mr. Sokoya stated that "Terragrade Transportation will only be allocating one vehicle to operate under WMATC and to transact within the District of Columbia." After additional correspondence surfacing this issue because of evidence that applicant possessed four vehicles, Mr. Sokoya stated on September 8, 2020, that:

Terragrade Transportation is disposing three vehicles out of its 4 vehicles due to the inability to afford the insurance . . . . In view of this, Terragrade Transportation will only use one vehicle to service the [Metropolitan District]. The other three vehicles have been disposed and an appointment has been made with MVA for 09/10/2020 to return the three vehicle tags.

On October 8, 2020, applicant furnished evidence that the for-hire license plates of three Toyota Sienna vans had been returned to the Maryland Motor Vehicle Administration (MVA). However, MVA records reveal that as of February 2021, Mr. Sokoya has those same three vans insured and actively registered in his name with new license plates. We find Mr. Sokoya's statement that applicant "disposed" of three vans, while they actually remain in the possession of applicant's CEO, to be misleading. A certain level of candor is required of applicants for WMATC operating authority.<sup>10</sup>

### **IV. LIKELIHOOD OF FUTURE COMPLIANCE**

When an applicant or a person controlling an applicant has a record of regulatory 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.<sup>11</sup>

The violations listed above were serious enough to warrant revocation of Certificate No. 2289 twice in four years. While we cannot say the violations were flagrant, we do not find any mitigating circumstances.

---

<sup>10</sup> *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).

<sup>11</sup> Order No. 17,335 at 2.

The record does contain some evidence of efforts by applicant to correct its past mistakes. On April 15, 2020, prior to submitting this application, applicant paid the \$450 in outstanding fees and late fees noted in Order No. 18,763. On May 4, 2020, the same day applicant submitted this application, applicant belatedly responded to the remaining requirements of Order No. 18,673 by returning the original Certificate No. 2289 and furnishing evidence that the WMATC number was removed from its vehicle.

But applicant's effort to correct its mistakes is undermined by the fact that its April 15, 2020, payment, like the application fee payment, was paid by check drawn on the account of "Abreast Management Inc," a defunct corporation.

Further, applicant's statement that it disposed of three vehicles, when applicant's CEO subsequently reregistered those same vehicles is misleading and ultimately fails to reach the level of disclosure expected of an applicant that bears the burden of production and persuasion on the issue of fitness to serve the public.

In light of applicant's previous violations, misleading statements regarding its vehicles, and failure to cure its commingling of assets with Abreast Management, Inc., despite being given an opportunity to do so, we are unable to find that applicant has carried its burden of establishing regulatory compliance fitness on this record.<sup>12</sup>

THEREFORE, IT IS ORDERED that the application of Terragrade Transportation Inc. for a certificate of authority is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS HOLCOMB AND RICHARD:



Jeffrey M. Lehmann  
Executive Director

---

<sup>12</sup> See *In re Devine Escape Limousine & Sedan LLC*, No. AP-10-142, Order No. 12,700 (Jan. 25, 2011) (denying application where the check submitted in payment of the application fee was drawn on the account of a corporation whose charter had been forfeited and applicant failed to cure the issue by destroying old check stock).