

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,429

IN THE MATTER OF:

Served July 12, 2021

MED-TRANS-INC., Suspension and)
Investigation of Revocation of)
Certificate No. 876)

Case No. MP-2020-113

This matter is before the Commission on respondent's response to Order No. 19,194, served December 30, 2020.

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. 876 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. 876 was rendered invalid on July 7, 2020, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 18,898, served July 7, 2020, noted the automatic suspension of Certificate No. 876 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 876, and gave respondent thirty days to replace the terminated endorsement and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 876.

Respondent paid the late fee and submitted a \$1.5 million primary WMATC Insurance Endorsement, and the suspension was lifted in Order No. 18,918, served July 29, 2020. However, because the effective date of the new endorsement was July 28, 2020, instead of July 7, 2020, leaving a 21-day gap in required insurance coverage, the order gave respondent 30 days to verify cessation of operations as of July 7, 2020, in accordance with Regulation No. 58-14. The statement was to be corroborated by copies of respondent's pertinent business records from

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

April 1, 2020, to July 29, 2020, and a statement from Medical Transportation Management, Inc., (MTM), one of respondent's principal clients. Respondent did not respond.

Order No. 19,194, served December 30, 2020, accordingly gave respondent 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 876, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

II. RESPONSE TO ORDER NO. 19,194 AND FINDINGS

On February 1, 2020, respondent submitted a statement from MTM stating that respondent ceased all operations with MTM from July 7, 2020, through August 3, 2020. The statement is accompanied by a copy of respondent's bank statement for the period beginning September 1, 2020, and ending September 30, 2020, and a spreadsheet containing payment information for invoice numbers SI-1610579 and SI-1610580.

We find respondent's belated response lacking. First, respondent has not provided its own written statement verifying whether it ceased operations within the Metropolitan District from July 7, 2020, to July 29, 2020, as directed in Order No. 18,918. Second, respondent has failed to produce business records from the April 1, 2020, to July 29, 2020, period as directed in Order No. 18,918, including any bank statements relating to that period. Third, MTM's statement that respondent ceased all operations with MTM is contradicted by the spreadsheet, which includes entries reflecting 10 trips performed on July 7, 2020.

Accordingly, we find that respondent failed to verify whether it ceased operating and failed to produce all relevant business records as required by Regulation No. 58-14(a) and directed by Order No. 18,918. We further find that respondent unlawfully transported passengers for hire between points in the Metropolitan District on July 7, 2020, while Certificate No. 876 was suspended and respondent's vehicles were uninsured.

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

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

⁴ Compact, tit. II, art. XI, § 10(c).

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

In setting the daily forfeiture amount, the Commission distinguishes between unlawful operations conducted with the required insurance coverage in place, on the one hand, from unlawful operations conducted without the required insurance coverage in place, on the other - assessing a larger amount for unlawful operations conducted without the required insurance coverage.⁷

For operating unlawfully but with the requisite WMATC Endorsement(s) on file, the Commission normally assesses a civil forfeiture of \$250 for each day of unauthorized operations.⁸ The Commission assesses \$500 per day when a carrier operates without the requisite WMATC Endorsement(s) on file.⁹

Accordingly, we shall assess a civil forfeiture of \$500 for knowingly and willfully operating on July 7, 2020, while Certificate No. 876 was suspended and respondent's vehicles were uninsured.

Because respondent has failed to verify cessation of operations and produce records as required by Regulation No. 58-14(a) and directed by Order No. 18,918, and because respondent has offered no satisfactory explanation for this noncompliance, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250.¹⁰ Because respondent operated while suspended and uninsured and failed to verify cessation of operations and produce records as directed, we shall revoke Certificate No. 876.¹¹

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

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

⁶ *Id.*

⁷ *In re Jonathan Lee Gerity Sr, t/a Riverside Transp.*, No. MP-16-036, Order No. 16,574 at 5 (Sept. 15, 2016), *Recons. denied*, Order No. 16,710 (Nov. 30, 2016).

⁸ *Id.* at 5.

⁹ *Id.* at 5.

¹⁰ *See Dreamception LLC, t/a Great Outdoors DMV*, No. MP-20-057, Order No. 19,224 (Jan. 27, 2021) (assessing \$250 for failing to produce verification and documents).

¹¹ *See Lifeline Inc.*, No. MP-16-101, Order No. 16,760 (Dec. 23, 2016) (revoking authority of carrier that operated while suspended and uninsured and failed to produce documents).

the amount of \$500 for knowingly and willfully violating Article XI, Section 6(a) of the Compact, Regulation No. 58-12, and the orders in this proceeding.

2. 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. 18,918.

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 876 is hereby revoked for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, Regulation No. 58-12, Regulation No. 58-14(a), and the orders in this proceeding.

4. 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 seven hundred fifty dollars (\$750);
- b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- c. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 876 to the Commission.

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



Jeffrey M. Lehmann
Executive Director