

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,456

IN THE MATTER OF:

Served July 28, 2021

TRANSIT PRO TRANSPORTATION)
SERVICES, LLC, Suspension and)
Investigation of Revocation of)
Certificate No. 2775)

Case No. MP-2020-093

This matter is before the Commission on respondent's response to Order No. 19,192, 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. 2775 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. 2775 was automatically suspended on May 22, 2020, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 18,847, served May 22, 2020, noted the automatic suspension of Certificate No. 2775 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 2775, and gave respondent 30 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. 2775.

Respondent paid the late fee and submitted a \$1.5 million primary WMATC Insurance Endorsement, and the suspension was lifted in Order No. 18,917, served July 29, 2020. However, because the effective date of the new endorsement was July 13, 2020, instead of May 22, 2020, leaving a 52-day gap in required insurance coverage, the order gave respondent 30 days to verify cessation of operations as of May 22, 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).

March 1, 2020, until July 29, 2020, and a statement from Southeastrans, Inc., one of respondent's principal clients. Respondent did not respond.

Order No. 19,192, 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. 2775, 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. 19,192 AND FINDINGS

On January 27, 2021, respondent submitted a statement from its owner, Tina Perkins, in which she states that respondent "was not conducting business and did not draw in any revenue from the time period of 5/22/2020 to 08/05/2020." The statement is accompanied by copies of respondent's bank statements from a Wells Fargo account for the period beginning May 1, 2020, and ending July 31, 2020. In addition, on January 28, 2021, Southeastrans, Inc., submitted a statement.

We find respondent's response lacking in several respects. First, the Southeastrans statement indicates respondent "has not completed any trips for Southeastrans since May 1, 2020." The typed Southeastrans statement was undated, but the date of July 24, 2020, has been handwritten on the document. It is thus unclear from this record whether respondent's cessation of operations for Southeastrans continued through at least July 24, 2020, or through some other unspecified date. In either scenario, the statement leaves ambiguous whether respondent recommenced operations for Southeastrans before the suspension of respondent's operating authority was lifted on July 29, 2020. Second, Ms. Perkins' statement that respondent "did not draw in any revenue" is not supported by respondent's Wells Fargo bank statements which show deposits totaling \$9,378.70 between June 1 and July 27, 2020. Third, the bank statements reflect that these deposits were online transfers from another business checking account belonging to respondent, but respondent failed to provide any bank statements for this other account. Fourth, respondent has not provided its Wells Fargo account statements or any other business records for the period from March 1, 2020, until April 30, 2020, as directed by Order No. 18,917. Consequently, respondent has not yet produced all relevant records as required by Regulation No. 58-14(a).

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

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

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 failed to produce all corroborating business records as required by Regulation No. 58-14(a) and directed by Order No. 18,917, and because respondent has offered no explanation for this noncompliance, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250⁷ and revoke Certificate No. 2775.⁸

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. 18,917.

2. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 2775 is hereby revoked for respondent's willful failure to comply with Regulation No. 58-14(a) and Order No. 18,917.

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 with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 2775 to the Commission.

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re Sheba Network, LLC, t/a Sheba*, No. MP-14-111, Order No. 15,591 (May 15, 2015).

⁶ *Id.*

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

⁸ See *id.* (revoking authority for failing to produce documents corroborating verification of suspension compliance).

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

A handwritten signature in blue ink that reads "Jeffrey M. Lehmann". The signature is written in a cursive style with a large, stylized initial "J".

Jeffrey M. Lehmann
Executive Director