

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,546

IN THE MATTER OF:

Served October 1, 2021

DEENA TRANS EXPRESS LLC, Suspension)
and Investigation of Revocation of)
Certificate No. 2543)

Case No. MP-2020-114

This matter is before the Commission on respondent's response to Order No. 19,205, served January 11, 2021.

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. 2543 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. 2543 was rendered invalid on July 14, 2020, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 18,900, served July 14, 2020, noted the automatic suspension of Certificate No. 2543 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 2543, 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. 2543.

Respondent paid the late fee and submitted a \$1.5 million primary WMATC Insurance Endorsement, and the suspension was lifted in Order No. 19,052, served October 20, 2020. However, because the effective date of the new endorsement was October 5, 2020, instead of July 14, 2020, leaving an 83-day gap in required insurance coverage, the order gave respondent 30 days to verify cessation of operations as of July 14, 2020, in accordance with Regulation No. 58-14. The statement was to be

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

corroborated by copies of respondent's pertinent business records from April 1, 2020, to October 20, 2020. Respondent did not respond.

In accordance with Regulation No. 58-14(b), Order No. 19,205, 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. 2543.

II. RESPONSE TO ORDER NO. 19,205 AND FINDINGS

On January 19, 2021, as supplemented on June 30, 2021, respondent submitted two statements from its manager, Abdulhamid Yousseuf, and copies of various business records, including: (a) copies of respondent's SunTrust bank statements for the period beginning April 1, 2020, and ending July 31, 2020; and (b) incomplete copies of Mr. Yousseuf's Wells Fargo bank statements for the period beginning March 9, 2020, and ending September 28, 2020.

We find respondent's response lacking. Respondent states that it did not transport passengers within the Metropolitan District from March 24, 2020, through October 28, 2020. However, the statements are not signed as required by Commission Rule 4-05 or verified under oath as required by Commission Rule No. 4-06.

Furthermore, the statements are not corroborated by all pertinent business records from the April 1, 2020, to October 20, 2020, period as directed in Order No. 19,052. Specifically, respondent failed to produce SunTrust Bank statements for the account in its own name covering the period beginning August 1, 2020, and ending October 20, 2020. In addition, respondent failed to produce Wells Fargo bank statements for the period beginning September 29, 2020, and ending October 20, 2020, and those statements that were produced are missing multiple pages and numerous transactions. Finally, the late fee that respondent paid by credit card in this proceeding on October 19, 2020, is not reflected in the records produced by respondent, which further establishes that respondent has not produced all bank and credit card statements for the period from April 1, 2020, to October 20, 2020.

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

Because respondent has (1) failed to verify under oath whether it ceased operating while suspended and uninsured from July 14, 2020, to October 4, 2020, and while suspended from October 5, 2020, through October 19, 2020; (2) failed to produce all relevant business records as required by Regulation No. 58-14(a) and directed by Order No. 19,052; and (3) offered no explanation for these failures, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250⁷ and revoke Certificate No. 2543.⁸

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. 19,052.

2. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 2543 is hereby revoked for respondent's willful failure to comply with Regulation No. 58-14(a) and Order No. 19,052.

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. 2543 to the Commission.

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



Jeffrey M. Lehmann
Executive Director

⁵ *In re Amanuel Tesfaye*, No. MP-18-003, Order No. 17,726 (July 16, 2018).

⁶ *Id.*

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

⁸ *See id.* (revoking authority for failing to produce verification and documents).