

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,547

IN THE MATTER OF:

Served October 1, 2021

ESKINDER LIMO INC., Suspension and)
Investigation of Revocation of)
Certificate No. 2897)

Case No. MP-2019-188

This matter is before the Commission on respondent's failure to respond to Order No. 19,435, served July 12, 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

Certificate No. 2897 was rendered invalid on November 15, 2019, pursuant to Regulation No. 58-12, when the \$1 million primary and \$4 million excess WMATC Insurance Endorsements on file for respondent terminated without replacement. Order No. 18,505, served November 15, 2019, noted the automatic suspension of Certificate No. 2897, directed respondent to cease transporting passengers for hire under Certificate No. 2897, and gave respondent 30 days to replace the terminated endorsements and pay the \$100 late fee due under Regulation No. 67-3(c) or face revocation of Certificate No. 2897.

Respondent paid the late fee and submitted \$1 million primary and \$4 million excess WMATC Insurance Endorsements, and the suspension was lifted in Order No. 18,523, served November 27, 2019. However, respondent's replacement endorsements did not take effect until November 20, 2019, instead of November 15, 2019, leaving a 5-day gap in required insurance coverage. Order No. 18,523 accordingly directed respondent to submit a statement verifying cessation of operations as of November 15, 2019, as required by Regulation No. 58-14(a). The order also directed respondent to produce copies of its business records pertaining to any and all operations under WMATC authority from September 1, 2019, to November 27, 2019.

On December 3, 2019, respondent submitted \$1 million primary and \$4 million excess WMATC Insurance Endorsements with an effective date of November 15, 2019, and expiration date of November 20, 2019. This

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

had the effect of closing the 5-day gap in insurance coverage. However, closing an insurance gap does not relieve a carrier of the requirements of Regulation No. 58-14(a).³

In response to Order No. 18,523, respondent produced copies of respondent's bank statements for the period beginning August 7, 2019, and ending November 6, 2019; copies of respondent's trip logs for the period beginning September 3, 2019, and ending November 29, 2019; a passenger manifest from Georgetown Trolley Tours for the period beginning November 15, 2019, and ending November 24, 2019; copies of pay stubs for the period beginning September 13, 2019, and ending November 15, 2019; and a sales summary for the period beginning September 1, 2019, and ending December 2, 2019.

While this proceeding was pending, on July 8, 2020, respondent filed an application seeking voluntarily termination of Certificate No. 2897. The Commission granted the application and Certificate No. 2897 was voluntarily terminated effective August 5, 2020.⁴

II. ORDER TO SHOW CAUSE

In Order No. 19,435, we found respondent's response deficient because respondent failed to provide a statement addressing whether respondent transported passengers for hire during the suspension period from November 15, 2019, until November 26, 2019. In addition, respondent did not provide copies of bank statements for the period beginning November 7, 2019, and ending November 27, 2019.

In accordance with Regulation No. 58-14(b), Order No. 19,435 gave respondent 30 days to show cause why the Commission should not assess a civil forfeiture against respondent for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

Respondent has yet to respond.

III. ASSESSMENT OF FORFEITURE

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.⁵

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.⁶

³ *In re J T E Inc.*, No. MP-16-047, Order No. 16,621 (Oct. 17, 2016).

⁴ *In re Eskinder Limo Inc.*, No. AP-20-120, Order No. 18,927 (Aug. 5, 2020).

⁵ Compact, tit. II, art. XIII, § 6(f).

⁶ Compact, tit. II, art. XI, § 10(c).

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁷ 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.⁸

Because respondent has (1) failed verify whether it ceased transporting passengers in the Metropolitan District from November 15, 2019, to November 26, 2019; (2) failed to produce all relevant business records as required by Regulation No. 58-14(a) and directed by Order No. 18,523; 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 \$250.⁹ Normally, we would also revoke Certificate No. 2897,¹⁰ but as noted above, respondent's certificate already stands terminated.

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. 18,523.

2. That respondent is hereby directed to pay to the Commission within 30 days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

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



Jeffrey M. Lehmann
Executive Director

⁷ *In re Amanuel Tesfaye*, No. MP-18-003, Order No. 17,726 (July 16, 2018).

⁸ *Id.*

⁹ See *id.* (assessing \$250 for failing to produce verification and documents).

¹⁰ See *id.* (revoking certificate of authority for failure to produce verification and documents).