

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,593

IN THE MATTER OF:

Served November 2, 2021

SOLID ROCK TRANSPORTATION, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 1500)

Case No. MP-2019-191

This matter is before the Commission on the response of respondent to Order No. 18,653, served February 4, 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

Certificate No. 1500 was rendered invalid on November 19, 2019, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 18,513, served November 19, 2019, noted the automatic suspension of Certificate No. 1500, directed respondent to cease transporting passengers for hire under Certificate No. 1500, 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. 1500. Respondent filed a replacement \$1 million primary WMATC Endorsement on December 10, 2019, and paid the \$100 late fee on December 11, 2019, but failed to file a \$500,000 excess WMATC Endorsement and Certificate No. 1500 was revoked in Order No. 18,590, served December 30, 2019.

Respondent subsequently submitted the necessary excess WMATC Insurance Endorsement and filed a timely application for reconsideration of Order No. 18,590, and Certificate No. 1500 was reinstated on February 4, 2020, in Order No. 18,653, in accordance with Regulation No. 58-15(b).

However, because the effective date of respondent's replacement \$1 million primary WMATC Endorsement is December 6, 2019, and the effective date of respondent's \$500,000 excess WMATC Endorsement is January 13, 2020, instead of November 19, 2019, leaving a 55-day gap in required insurance coverage, the order gave respondent 30 days to verify cessation of operations as of November 19, 2019, in accordance with Regulation No. 58-14. The statement was to be corroborated by copies

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

of respondent's pertinent business records from September 1, 2019, to February 4, 2020, and a statement from Medical Transportation Management, Inc., (MTM), one of respondent's principal clients.

While this proceeding was pending, respondent allowed its WMATC Endorsement(s) to terminate without replacement once again, and Certificate No. 1500 was revoked in a separate proceeding in accordance with Regulation No. 58-15(a) when respondent failed to file the necessary insurance endorsement(s) and pay a late fee.³

II. RESPONSE TO ORDER NO. 18,653 AND PRELIMINARY FINDINGS

On February 21, 2020, as supplemented on March 3, 2020, and March 16, 2020, respondent submitted a statement from its owner, Oladapo Adeyale, a statement from MTM, and copies of respondent's bank statements for the period beginning November 1, 2019, and ending January 31, 2020.

In his statement dated February 7, 2020, and filed February 21 2020, Mr. Adeyale stated that respondent "ceased ALL operations" on November 19, 2019, and planned to resume operations with MTM on February 7, 2020. However, MTM's statement submitted on March 16, 2020, indicates that respondent completed seven trips on November 19, 2019, and one trip on December 10, 2019. Respondent's bank account statements reflect payments from MTM during this timeframe.

In assessing respondent's response, it is important to note that Commission precedent distinguishes between carriers operating without authority and without adequate insurance, on the one hand, and carriers operating without authority but with adequate insurance, on the other.⁴ The Commission metes out stiffer sanctions for operating without adequate insurance.⁵ 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.⁶ The Commission assesses \$500 per day when a carrier operates without the requisite WMATC Endorsement(s) on file.⁷

In this case, the record supports a finding that respondent operated on November 19, 2019, while Certificate No. 1500 was suspended and respondent's vehicles were uninsured, and on December 10, 2019, while Certificate No. 1500 was suspended and respondent's vehicles were insufficiently insured.

³ *In re Solid Rock Transp., Inc.*, No. MP-20-195, Order No. 19,169 (Dec. 4, 2020).

⁴ *In re Am. Eagle Limo. & Travel Serv., Inc.*, No. MP-16-013, Order No. 16,490 (July 21, 2016).

⁵ *Id.*

⁶ *In re Burlington Brew Tours, LLC*, No. MP-16-136, Order No. 16,854 (Mar. 1, 2017) at 3.

⁷ *Id.* at 3.

III. ORDER TO SHOW CAUSE

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.⁸ Each day of the violation constitutes a separate violation.⁹

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.¹⁰ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard of whether or not one has the right so to act.¹¹ Employee negligence is no defense.¹² "To hold carriers not liable for penalties where the violations . . . are due to mere indifference, inadvertence, or negligence of employees would defeat the purpose of" the statute.¹³

Respondent shall have 30 days to show cause why the Commission should not assess a \$1,000 civil forfeiture against respondent for knowingly and willfully transporting passengers for hire between points in the Metropolitan District on two days while Certificate No. 1500 was suspended and respondent was not adequately insured.

THEREFORE, IT IS ORDERED:

1. That respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

2. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

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



Jeffrey M. Lehmann
Executive Director

⁸ Compact, tit. II, art. XIII, § 6(f)(i).

⁹ Compact, tit. II, art. XIII, § 6(f)(ii).

¹⁰ *In re Jonathan Lee Gerity Sr, t/a Riverside Transp.*, No. MP-16-036, Order No. 16,574 at 5 (Sept. 15, 2016), recon. denied, Order No. 16,710 (Nov. 30, 2016).

¹¹ *Id.* at 5.

¹² *Id.* at 5.

¹³ *United States v. Illinois Cent. R.R.*, 303 U.S. 239, 244, 58 S. Ct. 533, 535 (1938).