

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,594

IN THE MATTER OF:

Served November 2, 2021

TRANSPORTE GETSEMANI, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 2916)

Case No. MP-2019-161

This matter is before the Commission on respondent's failure to respond to Order No. 18,565, served December 16, 2019.

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. 2916 was rendered invalid on October 7, 2019, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 18,411, served October 7, 2019, noted the automatic suspension of Certificate No. 2916 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 2916, and gave respondent 30 days to replace the terminated endorsement and pay a \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 2916.

Respondent paid the late fee and submitted a \$1.5 million primary WMATC Insurance Endorsement, and the suspension was lifted in Order No. 18,488, served November 12, 2019. However, respondent's replacement endorsement did not take effect until October 10, 2019, instead of October 7, 2019, leaving a 3-day gap in required insurance coverage. Order No. 18,488 accordingly directed respondent to verify cessation of operations as of October 7, 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 July 1, 2019, to November 12, 2019. Respondent produced neither a statement nor any business records.

Regulation No. 58-14(b) states that upon failure of a carrier to comply timely with the requirements of Regulation No. 58-14(a), "the Executive Director shall issue an order directing the carrier to show

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

cause why a civil forfeiture should not be assessed against the carrier and/or why the carrier's operating authority should not be suspended or revoked."

Accordingly, pursuant to Regulation No. 58-14(b), Order No. 18,565 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. 2916. Respondent has yet to respond.

While this proceeding was pending, respondent allowed its WMATC Endorsement to terminate without replacement once again, and Certificate No. 2916 was revoked in a separate proceeding in accordance with Regulation No. 58-15(a) when respondent did not pay a \$100 late fee within 30 days.³

II. 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.⁴

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.⁵

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁶ 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.⁷

Because respondent has failed to respond to Order No. 18,488 and has offered no explanation for this failure, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250.⁸ Normally, we would also revoke Certificate No. 2916⁹ but respondent's certificate already stands revoked.

³ *In re Transporte Getsemani, Inc.*, No. MP-20-188, Order No. 19,142 (Nov. 12, 2020).

⁴ Compact, tit. II, art. XIII, § 6(f).

⁵ Compact, tit. II, art. XI, § 10(c).

⁶ *In re Primo Exec. Transp. Servs., LLC*, No. MP-17-044, Order No. 17,238 (Oct. 4, 2017).

⁷ *Id.*

⁸ *See id.* (assessing \$250 forfeiture for failure to comply with order to verify cessation of operations and produce business records).

⁹ *See id.* (revoking certificate of authority for failure to comply with order to verify cessation of operations and produce business records).

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 Order No. 18,488.

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

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



Jeffrey M. Lehmann
Executive Director