

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,597

IN THE MATTER OF:

Served November 2, 2021

EMERALD EXECUTIVE TRANSPORTATION, )  
INC., Suspension and Investigation )  
of Revocation of Certificate )  
No. 1975 )

Case No. MP-2019-162

This matter is before the Commission on respondent's response to Order No. 18,564, 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."<sup>1</sup> A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.<sup>2</sup>

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 1975 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. 1975 was rendered invalid on October 8, 2019, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent expired without replacement. Order No. 18,413, served October 8, 2019, noted the automatic suspension of Certificate No. 1975 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1975, 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. 1975.

Respondent paid the late fee and submitted a \$1.5 million primary WMATC Insurance Endorsement, and the suspension was lifted in Order No. 18,489, served November 12, 2019. However, because the effective date of the new endorsement was November 8, 2019, instead of October 8, 2019, leaving a 31-day gap in required insurance coverage, the order gave respondent 30 days to verify cessation of operations as of October 8, 2019, in accordance with Regulation No. 58-14(a). The statement was

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<sup>1</sup> Compact, tit. II, art. XI, § 6(a).

<sup>2</sup> Compact, tit. II, art. XI, § 7(g).

to be corroborated by copies of respondent's pertinent business records from July 1, 2019, through November 12, 2019. Respondent failed to respond.

Regulation No. 58-14(b) states that upon the 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 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." Order No. 18,564 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. 1975.

## **II. RESPONSE TO ORDER NO. 18,564**

On January 13, 2020, as supplemented on January 16, 2020, respondent produced a statement of its president, Luis Morales, and copies of various business records, including: (a) copies of Luis Morales' Uber weekly earnings for the period beginning October 7, 2019, and ending November 10, 2019; and (b) copies of respondent's bank statements for the period beginning June 29, 2019, and ending November 29, 2019.

In the January 13, 2020, statement, Mr. Morales explained that respondent was in the process of obtaining a new vehicle on October 8, 2019, when the WMATC Insurance Endorsement terminated, and "there was no vehicle to insure at the time." In addition, Mr. Morales stated that he "[works] only for Uber" and "did not generate any revenue." In the January 16, 2020, statement, Mr. Morales further indicated that respondent ceased all operations in the Metropolitan District from October 8, 2019, through November 12, 2019. Respondent's statement is supported by Uber weekly earnings reports from the period beginning October 7, 2019, and ending November 10, 2019, which do not reflect any completed trips.

However, respondent's statement appears inconsistent with respondent's bank statements, which show more than \$400 in purchases at service stations within the Metropolitan District consistent with gasoline purchases and more than \$3,000 in deposits from Uber in eight separate transactions during the 35-day suspension period. Indeed, the bank activity during the suspension period appears consistent with the activity before and after the suspension period and is not consistent with a halt in operations.

Moreover, records obtained from the Maryland Motor Vehicle Administration indicate that respondent's vehicle was titled and registered in April 2019, despite Mr. Morales' assertion that respondent did not have a vehicle during the suspension period. Finally, respondent's failure to produce Uber weekly earnings reports for the full July 1, 2019, to November 12, 2019, period as directed in Order No. 18,489 leaves respondent's statement partly uncorroborated.

### 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.<sup>3</sup> Each day of the violation constitutes a separate violation.<sup>4</sup>

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.<sup>5</sup>

Considering that respondent has failed to produce all pertinent business records and because the documents respondent has produced indicate that respondent transported passengers for hire between points in the Metropolitan District while suspended and uninsured on eight separate days during the period of October 15, 2019, through November 4, 2019, respondent shall have 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1975, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.<sup>6</sup>

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, and/or suspend or revoke Certificate No. 1975, 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

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<sup>3</sup> Compact, tit. II, art. XIII, § 6(f)(i).

<sup>4</sup> Compact, tit. II, art. XIII, § 6(f)(ii).

<sup>5</sup> Compact, tit. II, art. XI, § 10(c).

<sup>6</sup> See *In re Am. Eagle Limo. & Travel Serv., Inc.*, No. MP-16-013, Order No. 16,490 (July 21, 2016) (directing carrier to show cause where documents showed carrier operated while suspended).