

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,687

IN THE MATTER OF:

Served February 2, 2022

VERIGREEN, INC., Suspension and )  
Investigation of Revocation of )  
Certificate No. 3176 )

Case No. MP-2021-105

This matter is before the Commission on respondent's response to Order No. 19,604, served November 10, 2021.

**I. BACKGROUND**

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 3176 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. 3176 was automatically suspended on September 12, 2021, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 19,515, served September 14, 2021, noted the automatic suspension of Certificate No. 3176 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 3176, 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. 3176.

Respondent paid the late fee and submitted an acceptable \$1.5 million primary WMATC Insurance Endorsement on September 28, 2021, and the suspension was lifted in Order No. 19,532, served September 29, 2021. However, because the effective date of the new endorsement was September 28, 2021,<sup>1</sup> instead of September 12, 2021, leaving a 16-day gap in required insurance coverage, the order gave respondent 30 days in accordance with Regulation No. 58-14(a) to: (1) verify cessation of operations from September 12, 2021, to September 29, 2021; and (2) produce copies of respondent's pertinent business records from June 1, 2021, to September 29, 2021.

On November 9, 2021, Progressive Casualty Insurance Company filed a new \$1.5 million primary WMATC Insurance Endorsement on behalf of respondent with an effective date of September 12, 2021, and an expiration date of September 12, 2022. This had the effect of closing

---

<sup>1</sup> Order No. 19,532 erroneously stated that the effective date of the replacement endorsement was September 22, 2021.

the 16-day coverage gap. But closing the insurance gap did not alter the fact that Certificate No. 3176 was suspended from September 12, 2021, until September 29, 2021, and did not relieve respondent of the requirements of Regulation No. 58-14(a), as amplified by Order No. 19,532, directing respondent to verify cessation of operations from September 12, 2021, to September 29, 2021, and directing respondent to produce business records relating to respondent's WMATC operations from June 1, 2021, to September 29, 2021.

On November 10, 2021, having received neither respondent's verification nor respondent's business records, the Commission issued Order No. 19,604, directing respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 3176, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

## **II. RESPONSE TO ORDER NO. 19,604 AND FINDINGS**

On November 22, 2021, respondent's program director, Mojisola Makinde, submitted a one-page statement on respondent's behalf. According to the statement:

Verigreen Inc. is an approved provider with the Department on Disability DC to provide Community Based Day Habilitation services for persons with developmental disabilities. Verigreen Inc.'s vehicle is usually used to transport people supported for community leisure activities. Verigreen Inc. does not transport passengers for hire under Certificate No. 3176.

When Order No. 19,515, served September 14, 2021, noting the automatic suspension of Certificate No. 3176 pursuant to Regulation No. 58-12 was received by Verigreen Inc.; all transporting people we support under Certificate No. 3176 ceased. . . .

The people we support were transported by designated staff with their private vehicle to their community activities from September 13<sup>th</sup> to September 29<sup>th</sup> 2021. . . . Attached is mileage reimbursement paid to designated staff from Sept 12<sup>th</sup> - September 29<sup>th</sup>.

Respondent disputes that the transportation services it rendered are for-hire, but the record makes clear that respondent is compensated by the District of Columbia government for the day habilitation services it provides to persons with developmental disabilities, and among these services is transportation of program participants to community

activities. We have previously found such service to be for-hire<sup>2</sup> and decline to reverse this determination on the basis of respondent's summary conclusion, without any supporting analysis.

Furthermore, as respondent's statement makes clear, rather than ceasing to furnish passenger transportation while its certificate of authority was suspended, respondent continued transporting the same program participants by directing its staff to use their personal vehicles. Far from mitigating the problem, this response raises numerous additional serious issues, including whether staff's personal vehicles had passed a safety inspection (Regulation No. 64-02(b)), whether the vehicles were registered for-hire (Regulation No. 64-04), and whether the vehicles were properly marked to identify respondent's operations to the public (Regulation No. 61).

Respondent also asserts that any unauthorized operations were not performed knowingly and willfully, but respondent acknowledges receipt of Order No. 19,515 directing it to cease transportation of passengers for hire under Certificate No. 3176 "unless and until otherwise ordered by the Commission" and we find that respondent's continued operations in defiance of the order were knowing and willful.

Respondent's statement does not specify the exact number of days it operated, but admits that passengers were transported in staff vehicles from September 13, 2021 to September 29, 2021, while its certificate was suspended. Accordingly, we find that respondent operated on at least two days while suspended but insured.

In addition, respondent has failed to produce all business records directed by Order No. 19,532. Respondent did belatedly submit copies of three checks and a bank statement printout for the period beginning September 13, 2021, and ending September 29, 2021. However, production of the bank statement printout covering 17 days falls short of compliance with the clear directive in Order No. 19,532 to produce records for "the period beginning June 1, 2021, and ending on [September 29, 2021], including, but not limited to any and all . . . bank and credit card statements."

### **III. ASSESSMENT OF FORFEITURE AND PROBATION**

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>

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision

---

<sup>2</sup> See *In re Lifeline Inc.*, No. MP-16-101, Order No. 16,760 at 2 (Dec. 23, 2016).

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

of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.<sup>4</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>5</sup> 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.<sup>6</sup>

In situations similar to this one - operating while suspended but not while uninsured - the Commission has assessed a civil forfeiture of \$250 for each day of unauthorized operations and placed carriers on probation for one year.<sup>7</sup> We shall follow the same course here and assess a civil forfeiture of \$250 per day, for two days, or \$500, and place respondent on probation for one year.

We also shall assess a forfeiture of \$250 against respondent for failing to produce all documents as required by Regulation No. 58-14(a) and Order No. 19,532.<sup>8</sup>

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 \$500 for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58-12, and Order No. 19,515.

2. 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. 19,532.

3. 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 seven hundred fifty dollars (\$750).

4. That respondent is hereby placed on probation for a period of one year, such that a willful violation of the Compact, or of the Commission's rules, regulations, or orders thereunder, by respondent during the period of probation shall constitute grounds for immediate suspension and/or revocation of respondent's operating authority regardless of the nature and severity of the violation.

---

<sup>4</sup> Compact, tit. II, art. XI, § 10(c).

<sup>5</sup> *In re J T E Inc.*, No. MP-16-047, Order No. 16,621 (Oct. 17, 2016).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3-4.

<sup>8</sup> See *id.* at 4 (assessing \$250 for failing to produce documents as required by Regulation No. 58-14(a) and Commission order).

BY DIRECTION OF THE COMMISSION; COMMISSIONERS RICHARD AND LOTT:

A handwritten signature in blue ink, reading "Jeffrey M. Lehmann". The signature is written in a cursive style with a prominent "J" and "L".

Jeffrey M. Lehmann  
Executive Director