

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,721

IN THE MATTER OF:

Served March 22, 2022

AMNA O. ABUGUSSEISA, Trading as)
AB & B TRANS, Suspension and)
Investigation of Revocation of)
Certificate No. 697)

Case No. MP-2021-107

AMNA O. ABUGUSSEISA, Trading as)
AB & B TRANS, Suspension and)
Investigation of Revocation of)
Certificate No. 697)

Case No. MP-2022-003

This matter is before the Commission on respondent's response to Order No. 19,622, served November 30, 2021, in Case No. MP-2021-107, and respondent's failure to comply with Order No. 19,668, served January 11, 2022, in Case No. MP-2022-003.

Order No. 19,622 gave respondent until December 30, 2021, to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 697, for respondent's violation of the Compact, the Commission's insurance regulation, Regulation No. 58, and the orders issued in Case No. MP-2021-107.

Order No. 19,668 noted the suspension of Certificate No. 697 for respondent's renewed violation of Regulation No. 58 and gave respondent until February 10, 2022, to bring its operations into compliance or face revocation of Certificate No. 697. Respondent has yet to comply.

These proceedings are being consolidated under Rule No. 20-02 because they share common issues of fact and law.

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

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 697 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

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.

A. Case No. MP-2021-107

Certificate No. 697 was rendered invalid on September 25, 2021, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 19,527, served September 27, 2021, noted the automatic suspension of Certificate No. 697 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 697, 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. 697.

Respondent paid the late fee and submitted a \$1.5 million primary WMATC Insurance Endorsement, and the suspension was lifted in Order No. 19,576, served October 25, 2021. However, because the effective date of the new endorsement is October 21, 2021, instead of September 25, 2021, leaving a 26-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 25, 2021, to October 25, 2021; and (2) produce copies of respondent's pertinent business records from July 1, 2021, to October 25, 2021. 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 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."

Considering that respondent had not denied operating on and after the suspension date, and considering that respondent had failed to produce the required documents, pursuant to Regulation No. 58-14(b), Order No. 19,622 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. 697.

On December 8, 2021, respondent filed a statement signed by her manager, Omar Amir. The statement asserts:

I previously responded to the matter of this case on November 17th, 2021 via email I was not made aware that the documentation needed to be physically delivered to the WMATC office If this information was made clear to me I would've been able to appropriately respond to the case in the correct manner.

Respondent's statement was accompanied by some business records, including copies of respondent's checking account statements for September and October 2021. Respondent also submitted a letter from Medical Transportation Management, Inc., (MTM), which contracts with WMATC carriers to provide passenger transportation service under the District of Columbia Medicaid program, indicating that respondent has not transported passengers on behalf of MTM since May 18, 2021.

Respondent's statement fails to address whether respondent ceased operations during the suspension period, as specifically directed by Order No. 19,576, and respondent has still failed to produce all pertinent business records, including bank statements for July and August 2021.

B. Case No. MP-2022-003

While Case No. MP-2021-107 was pending, the WMATC Endorsement on file for respondent terminated without replacement on January 11, 2022. The Commission responded by issuing Order No. 19,668 on January 11, 2022. The order noted the automatic suspension of Certificate No. 697 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 697, 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. 3261. Respondent has yet to respond.

II. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY

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.³

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.⁴

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

Because respondent has (1) failed to verify whether she ceased operating while suspended and uninsured from September 25, 2021, through October 20, 2021, and while insured but still suspended from October 21,

³ Compact, tit. II, art. XIII, § 6(f).

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re Roberts Transp. LLC*, No. MP-20-006, Order No. 19,342 (Apr. 19, 2021).

⁶ *Id.*

2021, through October 24, 2021; (2) failed to produce all relevant business records as required by Regulation No. 58-14(a) and directed by Order No. 19,576; and (3) offered no explanation for these ongoing failures, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250.⁷

And for those reasons and because respondent has yet to replace the WMATC Insurance Endorsement that terminated January 11, 2022, and has yet to pay the \$100 late fee noted in Order No. 19,668 in Case No. MP-2022-003, we shall revoke Certificate No. 697 for respondent's willful failure to comply with Regulation No. 58 and Order Nos. 19,576 and 19,668.⁸

In accordance with Commission Regulation Nos. 60 and 67, the \$100 late insurance fee in Case No. MP-2022-003, respondent's unpaid \$175 annual fee for 2022, unfiled annual report for 2022, and \$300 in associated late fees shall remain due.

THEREFORE, IT IS ORDERED:

1. That Case Nos. MP-2021-107 and MP-2022-003 are hereby consolidated under Rule No. 20-02.

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. 19,576.

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 697 is hereby revoked for respondent's willful failure to comply with Regulation No. 58 and Order Nos. 19,576 and 19,668.

4. That within 30 days from the date of this order respondent shall:

- a. pay to the Commission by check or money order the sum of two hundred fifty dollars (\$250);
- b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- c. file a notarized affidavit and supporting photograph(s) with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 697 to the Commission.

⁷ See *id.* (assessing \$250 civil forfeiture for failing to produce verification and documents).

⁸ See *id.* (revoking authority for failing to replace WMATC Endorsement, pay late fee, and produce verification and documents).

5. That respondent's 2022 annual report and \$575 in unpaid fees shall remain due in accordance with Regulation Nos. 60 and 67.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS RICHARD AND LOTT:



Jeffrey M. Lehmann
Executive Director