

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,762

IN THE MATTER OF:

Served May 4, 2022

F&O TRANSPORT SERVICE, LLC,)
Suspension and Investigation of)
Revocation of Certificate No. 748)

Case No. MP-2020-119

This matter is before the Commission on respondent's response to Order No. 19,023, served October 6, 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

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 748 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. 748 was rendered invalid on July 22, 2020, when the \$500,000 excess of \$1 million WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 18,907, served July 22, 2020, noted the automatic suspension of Certificate No. 748 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 748, 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. 748.³

In the meantime, respondent's \$1 million primary WMATC Insurance Endorsement was canceled effective July 24, 2020, by notice filed June 23, 2020. Respondent paid the late fee on October 6, 2020, and submitted a \$1.5 million primary WMATC Insurance Endorsement on September 25, 2020, and the suspension was lifted in Order No. 19,023. However, because the effective date of the new endorsement is September 25, 2020, instead of July 22, 2020, leaving a 65-day gap in required

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

³ The 30-day response period was tolled until September 21, 2020, and expired October 21, 2020. See *In re Comm'n Operations in Exigent Circumstances Caused by the COVID-19 Pandemic*, Gen. Order No. 26 (Sept. 21, 2020).

insurance coverage, including 63 days without any insurance coverage in place, the order gave respondent 30 days to verify cessation of operations from July 22, 2020, to October 6, 2020, in accordance with Regulation No. 58-14(a). The order further directed respondent to corroborate its verification with copies of respondent's pertinent business records from May 1, 2020, to October 6, 2020, and a written statement from Southeastrans, Inc., a principal client of record, also as contemplated by Regulation No. 58-14(a).

II. RESPONSE TO ORDER NO. 19,023

On November 4, 2020, respondent submitted: 1) a statement of its primary member, Foday Kamara; 2) a copy of a letter from Southeastrans, dated July 23, 2020, notifying respondent it was to immediately cease furnishing transportation on behalf of Southeastrans; 3) evidence respondent's vehicle license plates were returned to the Maryland Motor Vehicle Administration prior to the suspension period; and 4) bank statements for two checking accounts held by respondent.

Respondent's response is lacking. First, respondent's statement is not signed as required by Commission Rule No. 4-05 or verified under oath as required by Commission Rule No. 4-06. Second, the statement does not address whether respondent transported passengers for hire during the suspension period from July 22, 2020, until October 6, 2020. Third, while the Southeastrans letter constitutes some evidence respondent ceased operations on July 23, 2020, it does indicate whether respondent refrained from operations on behalf of Southeastrans during the entire suspension period from July 22, 2020, to October 6, 2020. Fourth, the bank statements submitted by respondent are incomplete. Respondent failed to produce statements for one of its accounts covering the period from October 1, 2020, to October 6, 2020, and respondent failed to produce a statement for its other account for June 2020.

III. ORDER TO SHOW CAUSE

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."

Considering that respondent has not verified whether it ceased transporting passengers in the Metropolitan District from July 22, 2020, to October 6, 2020, and because the documents respondent has produced are not sufficient to establish cessation of operations, 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. 748, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to verify cessation of operations and produce documents as directed.

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. 748, 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.

FOR THE COMMISSION:

A handwritten signature in blue ink, appearing to read "Jeffrey M. Lehmann". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jeffrey M. Lehmann
Executive Director