

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,853

IN THE MATTER OF:

Served August 9, 2022

Application of THE ARK FOUNDATION)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2022-088

Applicant, a District of Columbia nonprofit corporation, seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

Applicant's chairwoman, Nadine Toko, is the sole owner of Wellness Health Services, LLC, trading as The Ark of DC, (WHS). WHS has filed three applications at the Commission.

WHS was first granted operating authority in 2019, but the issuance of a certificate of authority was expressly made contingent on WHS filing additional documents and passing a vehicle inspection conducted by Commission staff.¹ WHS failed to satisfy the conditions for issuance of operating authority within the time allotted, thereby voiding the Commission's approval.²

WHS was granted operating authority again in 2020, but the issuance of a certificate of authority was expressly made contingent on WHS filing additional documents and passing a vehicle inspection conducted by Commission staff.³ WHS failed to satisfy the conditions for issuance of operating authority within the time allotted, thereby voiding the Commission's approval for a second time.⁴

WHS was granted operating authority for a third time earlier this year, but the issuance of a certificate of authority was expressly made contingent on WHS fulfilling the same conditions as in the previous two

¹ See *In re Wellness Health Servs., LLC*, No. AP-19-011, Order No. 18,049 (Feb. 26, 2019) (conditionally granting Certificate No. 3265).

² See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66-01 (failure to comply with conditions of grant within 180 days voids approval).

³ See *In re Wellness Health Servs., LLC, t/a The Ark of DC*, No. AP-20-008, Order No. 18,647 (Jan. 31, 2020) (conditionally granting Certificate No. 3265).

⁴ See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66-01 (failure to comply with conditions of grant within 180 days voids approval).

applications.⁵ Before those conditions were met and a certificate of authority was issued, WHS withdrew the application.⁶

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

In closing, we note that in the event applicant fails to successfully obtain a certificate of authority in this proceeding for failure to timely satisfy the conditions stipulated in this order, the three-strike rule in Regulation No. 66-01 will bar applicant from reapplying for WMATC operating authority for a period of one year as measured from the end of the 180-day compliance period associated with this application.⁷

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 3265 shall be issued to The Ark Foundation, 1818 New York Avenue, N.E., #224, Washington, DC 20002-1851.

⁵ See *In re Wellness Health Servs., LLC, t/a The Ark of DC*, No. AP-22-037, Order No. 19,750 (Apr. 28, 2022) (conditionally granting Certificate No. 3265).

⁶ *In re Wellness Health Servs., LLC, t/a The Ark of DC*, No. AP-22-037, Order No. 19,846 (Aug. 5, 2022).

⁷ See *In re Roll Right LLC*, No. AP-21-166, Order No. 19,677 (Jan. 24, 2022) (applying three-strike rule in Regulation No. 66-01 to applications by successive entities formed by same person).

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents and present its revenue vehicle(s) for inspection within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; and (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

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