

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,978

IN THE MATTER OF:

Served November 18, 2022

TRANZ TRANSPORTATION SERVICES,)
INC., Suspension and Investigation)
of Revocation of Certificate)
No. 3195)

Case No. MP-2020-105

This matter is before the Commission on respondent's failure to respond to Order No. 19,786, served June 7, 2022.

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

During the period relevant to this proceeding, Commission Regulation No. 58 required respondent to insure the revenue vehicles operated under Certificate No. 3195 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. 3195 was rendered invalid on June 20, 2020, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 18,884, served June 22, 2020, noted the automatic suspension of Certificate No. 3195 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 3195, 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. 3195.³

Respondent thereafter paid the late fee and submitted a \$1.5 million primary WMATC Insurance Endorsement, and the suspension was lifted in Order No. 19,017, served October 1, 2020. However, because

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).

the effective date of the new endorsement is September 11, 2020, instead of June 20, 2020, leaving an 83-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 June 20, 2020, to October 1, 2020; and (2) produce copies of respondent's pertinent business records from April 1, 2020, to October 1, 2020.

In response to Order No. 19,017, respondent submitted a statement asserting that it ceased operations from June 1, 2020, to October 28, 2020, and also produced copies of bank statements for the period beginning June 1, 2020, to September 30, 2020. However, respondent's assertion that it ceased operations is contradicted by its bank statements, which show numerous deposits for transportation services and purchases at gas stations throughout the period respondent's WMATC authority was suspended.

In Order No. 19,786, we found that the record supports a finding that respondent operated on at least seven days from June 20, 2020 to September 10, 2020, while certificate No. 3195 was suspended and respondent was uninsured and on at least five days from September 11, 2020, to September 30, 2020 while respondent was properly insured but still suspended pursuant to Order No. 18,884. We also found that respondent failed to produce all business records as directed by Order No. 19,017, including bank statements for the period April 1, 2020, to May 31, 2020, and credit card statements for the account used to pay the insurance late fee in this proceeding. Accordingly, Order No. 19,786 gave respondent 30 days to show cause why the Commission should not assess civil forfeitures totaling \$5,000 against respondent for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed. Respondent has yet to respond.

While this proceeding was pending, respondent allowed its WMATC Endorsement(s) to terminate without replacement once again, and Certificate No. 3195 was revoked in a separate proceeding in accordance with Regulation No. 58-15(a) when respondent failed to file the necessary insurance endorsement(s) and pay a late fee.⁴

II. ASSESSMENT OF FORFEITURE

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.⁵ Each day of the violation constitutes a separate violation.⁶

⁴ *In re Tranz Transp. Servs., Inc.*, No. MP-22-005, Order No. 19,745 (Apr. 22, 2022).

⁵ Compact, tit. II, art. XIII, § 6(f).

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

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.⁷

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁸ 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.⁹

In setting the daily forfeiture amount, the Commission distinguishes between unlawful operations conducted with the required insurance coverage in place, on the one hand, from unlawful operations conducted without the required insurance coverage in place, on the other - assessing a larger amount for unlawful operations conducted without the required insurance coverage.¹⁰

For operating unlawfully but with the requisite WMATC Endorsement(s) on file, the Commission normally assesses a civil forfeiture of \$250 for each day of unauthorized operations.¹¹ The Commission assesses \$500 per day when a carrier operates without the requisite WMATC Endorsement(s) on file.¹²

Accordingly, we shall assess a forfeiture against respondent in the amount of \$250 per day for five days of operations while suspended but properly insured (or \$1,250) and \$500 per day for seven days of operations while suspended and not properly insured (or \$3,500), for a total forfeiture of \$4,750. We shall also assess a forfeiture of \$250 against respondent for failing to produce documents as required by Regulation No. 58-14(a) and Order No. 19,017. Normally, we would also revoke Certificate No. 3195,¹³ but respondent's certificate already stands revoked.

THEREFORE, IT IS ORDERED:

⁷ Compact, tit. II, art. XI, § 10(c).

⁸ *In re Med-Trans-Inc.*, No. MP-20-113, Order No. 19,429 (July 12, 2021).

⁹ *Id.*

¹⁰ *In re Burlington Brew Tours, LLC*, No. MP-16-136, Order No. 16,854 at 3 (Mar. 1, 2017).

¹¹ *Id.* at 3.

¹² *Id.* at 3; *In re Ceepco Contracting LLC*, No. MP-17-136, Order No. 17,616 (May 17, 2018) (assessing \$500 per day for operating while suspended and underinsured); *In re Exquisite Limo. Serv. LLC*, No. MP-15-152, Order No. 16,153 (Jan. 22, 2016) (same).

¹³ See *In re Med-Trans-Inc.*, No. MP-20-113, Order No. 19,429 at 3 (July 12, 2021) (revoking authority for operating while suspended and uninsured); *In re Deena Trans Express LLC*, No. MP-20-114, Order No. 19,546 (Oct. 1, 2021) (revoking authority for failure to produce all relevant business records as directed).

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 \$4,750 for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58-12, and Order No. 18,884.

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. 19,017.

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 five thousand dollars (\$5,000).

BY DIRECTION OF THE COMMISSION; COMMISSIONERS RICHARD AND LOTT:

A handwritten signature in blue ink that reads "Jeffrey M. Lehmann". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jeffrey M. Lehmann
Executive Director