

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 20,054

IN THE MATTER OF:

Served January 25, 2023

Application of ROBERTS)	Case No. AP-2022-150
TRANSPORTATION LLC for a)	
Certificate of Authority --)	
Irregular Route Operations)	

Applicant 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.

Article XI, Section 7(a), of the Washington Metropolitan Area Transit Regulation Compact¹ provides that the Commission shall issue a certificate of authority to any qualified applicant, authorizing all or any part of the transportation covered by the application, if the Commission finds that: (i) 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; and (ii) the transportation is consistent with the public interest. An applicant must establish financial fitness, operational fitness, and regulatory compliance fitness.²

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.

Normally, such evidence would be sufficient to establish an applicant's fitness,³ but this applicant has a history of regulatory violations.

¹ Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

² *In re Giron's Limo Serv., Inc.*, No. AP-17-017, Order No. 16,934 (Apr. 11, 2017).

³ *Id.* at 2.

I. PAST VIOLATIONS

According to Commission records, applicant held WMATC Certificate No. 3261 from May 15, 2019, to April 19, 2021, when it was revoked in Case Nos. MP-20-006 and MP-21-004 for applicant's willful failure to maintain compliance with the Commission's insurance requirements in Regulation No. 58, failure to pay a \$100 insurance late fee pursuant to Regulation No. 67-03(c), and failure to verify cessation of operations and produce documents as directed.⁴

As the revocation order recounts, applicant had a 4-day gap in required insurance coverage from January 3, 2020, to January 6, 2020. Accordingly, in Order No. 18,625, served January 23, 2020, in Case No. MP-20-006, the Commission directed applicant to verify whether it ceased all operations in the Metropolitan District from January 3, 2020, until the suspension of Certificate No. 3261 was lifted on January 23, 2020, and to produce copies of all business records from October 1, 2019, to January 23, 2020, to corroborate its statement. Applicant failed to respond, and the Commission eventually revoked Certificate No. 3261 and assessed applicant a \$250 civil forfeiture against respondent for its failure to comply.

Applicant subsequently produced statements and business records. In a statement filed November 14, 2022, applicant admits operating on January 8 and 9, 2020, while Certificate No. 3261 remained suspended pursuant to Order No. 18,604, served January 3, 2020. Invoices produced by applicant on May 24, 2021, establish that applicant transported passengers on those dates between points within Prince George's County, Maryland, which is part of the Metropolitan District.⁵

II. ASSESSMENT OF FORFEITURE

Under the Compact, 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.⁶ Each day of the violation constitutes a separate violation.⁷

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁸ The term "willfully" does not mean with evil purpose or criminal intent; rather, it describes

⁴ *In re Roberts Transp. LLC*, No. MP-20-006, Order No. 19,342 (Apr. 19, 2021).

⁵ The Metropolitan District includes: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties Compact, tit. I, art. I.

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

⁷ Compact, tit. II, art. XIII, § 6(f)(ii).

⁸ Order No. 16,934 at 3.

conduct marked by careless disregard whether or not one has the right so to act.⁹ Employee negligence is no defense.¹⁰ "To hold carriers not liable for penalties where the violations . . . are due to mere indifference, inadvertence, or negligence of employees would defeat the purpose of" the statute.¹¹

The record shows that applicant operated in the Metropolitan District on two separate days after notice of the suspension was delivered to applicant by email on January 3, 2020. In addition, under Commission Regulation No. 58-11:

When a WMATC carrier's insurance has terminated or is about to terminate the carrier must contact the Commission to ascertain whether the necessary WMATC Insurance Endorsement has been filed before continuing to operate on and after the termination date. Proof a WMATC carrier has satisfied its duty to verify shall consist of contemporaneous written verification from the Commission.

No such written verification has been produced.

We therefore find that applicant knowingly and willfully violated Article XI, Section 6(a), of the Compact, Regulation No. 58-12, and Order No. 18,604 by transporting passengers for hire between points in the Metropolitan District on two separate days in January 2020 while Certificate No. 3261 was suspended.

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.¹² We shall assess a civil forfeiture of \$250 per day, for two days, or \$500.

III. LIKELIHOOD OF FUTURE COMPLIANCE

When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.¹³

Operating without authority is a serious violation. We find no mitigating circumstances. On the other hand, we do not find that the violations were flagrant or persistent. That applicant filed an

⁹ *Id.*

¹⁰ *Id.*

¹¹ *United States v. Illinois Cent. R.R.*, 303 U.S. 239, 243, 58 S. Ct. 533, 535 (1938).

¹² *In re Verigreen, Inc.*, No. MP-21-105, Order No. 19,687 at 4 (Feb. 2, 2022).

¹³ Order No. 16,934 at 3-4.

application of its own volition is some evidence of willingness and ability to comport with the Compact and rules and regulations thereunder in the future.¹⁴

Upon payment of the forfeiture assessed herein, the record will support a finding of prospective compliance fitness, subject to a 1-year period of probation.¹⁵

IV. CONCLUSION

Based on the evidence in this record, and in consideration of the terms of probation and other conditions prescribed herein, 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.

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against applicant 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. 18,604 by transporting passengers for hire between points in the Metropolitan District on two separate days while Certificate No. 3261 was suspended.

2. That applicant 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 hundred dollars (\$500).

3. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 3261 shall be reissued to Roberts Transportation LLC, 14327 Marlborough Lane, Upper Marlboro, MD 20772-2891.

4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate No. 3261 has been reissued in accordance with the preceding paragraph.

5. 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

¹⁴ Order No. 16,934 at 4.

¹⁵ *Id.*

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.

6. That applicant shall be placed on probation for a period of one year commencing with the reissuance of Certificate No. 3261 as approved in this order, such that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, during the period of probation shall constitute grounds for immediate suspension and/or revocation of Certificate No. 3261, regardless of the nature and severity of the violation.

7. 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.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS RICHARD AND LOTT:



Jeffrey M. Lehmann
Executive Director