

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 20,056

IN THE MATTER OF:

Served January 25, 2023

HORIZON MEDICAL TRANSPORTATION,)
L.L.C., Suspension and)
Investigation of Revocation of)
Certificate No. 1145)

Case No. MP-2022-027

This matter is before the Commission on the response of respondent to Order No. 19,979, served November 18, 2022, directing respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1145.

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. 1145 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. 1145 was rendered invalid at 12:01 a.m. on June 8, 2022, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 19,790, served June 8, 2022, noted the automatic suspension of Certificate No. 1145 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 1145, 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. 1145.

Respondent paid the late fee on June 23, 2022, and submitted a \$1 million primary WMATC Insurance Endorsement on June 22, 2022, and a \$500,000 excess WMATC Insurance Endorsement on June 23, 2022, and the suspension was lifted in Order No. 19,805, served June 24, 2022.

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

However, because the effective date of the new endorsements is June 22, 2022, instead of June 8, 2022, leaving a 14-day gap in required insurance coverage, Order No. 19,805 gave respondent 30 days to verify cessation of operations from June 8, 2022, to June 24, 2022, 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 March 1, 2022, to June 24, 2022, and a statement from Access2Care, LLC, (A2C), one of respondent's principal clients.

In response to Order No. 19,805, respondent submitted: (a) a signed statement asserting that it ceased operations "follow[ing] the suspension [order] from WMATC on the 8th of June and only resumed operations on the 24th of June after the suspension had been lifted"; (b) a signed statement from A2C stating that respondent "did not render transportation service for Access2Care, LLC between the dates of June 8, 2022 to June 24, 2022"; (c) copies of respondent's bank statements for the period beginning March 1, 2022, to June 30, 2022; and (d) trip log information corresponding to payments for transportation services made by A2C to respondent in 11 separate transactions between June 9, 2022, and July 21, 2022.

The trip logs reveal that on June 28, 2022, respondent was paid by A2C for 48 separate trips performed on June 8, 2022, when Certificate No. 1145 was suspended and respondent was uninsured.

Order No. 19,979 accordingly 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. 1145, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority.

II. RESPONSE TO ORDER NO. 19,805

Respondent's owner, Alphonse Vidzem, filed a statement admitting respondent continued transportation operations on June 8, 2022, until on or about 12:46 p.m. In the statement, Mr. Vidzem states respondent would not have operated had he been aware at the time that respondent's insurance coverage had expired, and explains that he relied on a June 7 communication from respondent's insurance broker, in which the broker purportedly indicated it would file a renewal of the policy later that day.

III. 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

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

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 careless disregard of whether or not one has the right so to act.⁶ Employee negligence is no defense.⁷ "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.⁸

Under Regulation No. 58-12: "Failure to replace a WMATC Insurance Endorsement prior to termination shall result in immediate, automatic suspension of a carrier's WMATC operating authority. The carrier must suspend operations immediately and may not recommence operations unless and until otherwise ordered by the Commission." Under 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.

There is no evidence in the record indicating that respondent contacted the Commission to ascertain whether the necessary WMATC Insurance Endorsement had been filed before continuing to operate on June 8, 2022. Respondent's operations on that date are thus deemed knowing and willful.

When the signatories and Congress approved the Compact, they designated noncompliance with Commission insurance requirements as the single offense that would automatically invalidate a certificate of authority.⁹ They could not have sent a clearer message that maintaining proper insurance coverage is of paramount importance under the Compact.¹⁰

⁴ Compact, tit. II, art. XI, § 10(c).

⁵ *In re Sami Investment Inc.*, No. MP-14-015, Order No. 15,692 at 2 (June 18, 2015).

⁶ *Id.* at 2.

⁷ *Id.* at 2.

⁸ *United States v. Illinois Cent. R.R.*, 303 U.S. 239, 243, 58 S. Ct. 533, 535 (1938).

⁹ Compact, tit. II, art. XI, § 7(g).

¹⁰ Order No. 15,692 at 3.

We therefore revoke Certificate No. 1145 and assess a forfeiture against respondent in the amount of \$500 per day, or \$500, for knowingly and willfully operating on June 8, 2022, while suspended and uninsured.¹¹

Because this matter was ripe for decision in 2022, respondent's annual report and annual fee for 2023 shall be waived, unless and until otherwise ordered.¹²

THEREFORE, IT IS ORDERED:

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 \$500 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 pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 1145 is hereby revoked for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, Regulation No. 58, and the orders issued in this proceeding.

3. 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 five hundred dollars (\$500);
- b. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- c. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- d. surrender Certificate No. 1145 to the Commission.

4. That the 2023 annual report and annual fee for Carrier No. 1145 shall be waived unless and until otherwise ordered.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS RICHARD AND LOTT:



Jeffrey M. Lehmann
Executive Director

¹¹ See *In re Med-Trans-Inc.*, No. MP-20-113, Order No. 19,429 at 3 (July 12, 2021) (revoking authority and assessing \$500 per day against carrier that operated while suspended and uninsured); *In re Express Transit, LLC*, No. MP-13-149, Order No. 15,197 at 3 (Nov. 14, 2014) (same).

¹² See *In re Abebe Teklemariam Alemu, t/a Express Ride*, No. MP-08-172, Order No. 11,818 (Jan. 26, 2009) (waiving annual report and annual fee upon revocation where matter was ripe for decision previous year).

