

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 20,550

IN THE MATTER OF:

Served January 3, 2024

C & G TRANSPORTATION LLC,)
Suspension and Investigation of)
Revocation of Certificate No. 3303)

Case No. MP-2023-041

This matter is before the Commission on respondent's response to Order No. 20,263, served June 30, 2023, which directed respondent to submit a statement verifying whether it ceased operations from June 2, 2023, to June 30, 2023, and to corroborate the statement with copies of respondent's pertinent business records and a client statement.

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. 3303 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. 3303 was rendered invalid on June 2, 2023, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 20,234, served June 2, 2023, noted the automatic suspension of Certificate No. 3303 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 3303, 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. 3303.

Respondent submitted a \$1.5 million primary WMATC Insurance Endorsement on June 20, 2023, and paid the late fee on June 28, 2023, and the suspension was lifted in Order No. 20,263. However, because the effective date of the new endorsement is June 15, 2023, instead of June 2, 2023, leaving a 13-day gap in required insurance coverage, the order gave respondent 30 days to verify cessation of operations from June 2,

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

2023, to June 30, 2023, 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, 2023, to June 30, 2023, and a statement from Verida, Inc., respondent's principal client of record.

II. RESPONSE TO ORDER NO. 20,263 AND PRELIMINARY FINDINGS

On July 28, 2023, respondent produced: (a) a signed statement from its CEO, Crystal Wright; (b) a signed statement from Verida; (c) trip logs listing trips performed by respondent for Verida between June 2, 2023, and June 15, 2023; (d) email correspondence with respondent's insurance agent; and (e) copies of respondent's bank statements for the period beginning March 1, 2023, and ending June 30, 2023.

In her statement, respondent's CEO admits that respondent continued operations after June 2, 2023. The Verida statement likewise states that respondent "operated for Verida, in the Metropolitan District, during the time period of June 2, 2023, through June 30, 2023." Respondent's bank statements show Verida payments deposited into its account at regular intervals throughout the suspension period.

According to trip logs obtained by the Commission from Verida on August 24, 2023, respondent performed 85 trips on 9 separate days while suspended and uninsured between June 2, 2023 and June 14, 2023,³ and 63 trips on 10 separate days while properly insured but still suspended between June 15, 2023, and June 29, 2023.⁴ Accordingly, the record supports a finding that in June 2023 respondent operated on 9 days while suspended and uninsured and on 10 days while properly insured but still suspended.

In assessing respondent's response, it is important to note that Commission precedent distinguishes between carriers operating without authority and without adequate insurance, on the one hand, and carriers operating without authority but with adequate insurance, on the other.⁵ The Commission metes out stiffer sanctions for operating without adequate insurance.⁶ 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.⁷ The Commission assesses \$500 per day of unauthorized operations and revokes a respondent's certificate of authority when a carrier operates without the requisite WMATC Endorsement(s) on file.⁸

³ The dates are June 2, 5, 6, 7, 8, 9, 12, 13 and 14, 2023.

⁴ The dates are June 15, 16, 20, 21, 22, 23, 26, 27, 28, and 29, 2023.

⁵ *In re Tranz Transp. Servs., Inc.*, No. MP-20-105, Order No. 19,786 at 2 (June 7, 2022).

⁶ *Id.*

⁷ *In re Burlington Brew Tours, LLC*, No. MP-16-136, Order No. 16,854 at 3 (Mar. 1, 2017).

⁸ *Id.* at 3-4. *But see In re Boss Transp. & Trucking, LLC, t/a Boss Transp. & Fam. Servs. LLC*, No. MP-22-043, Order No. 20,187 at 4 (May 8, 2023) (declining

In her statement, respondent's CEO asserts that respondent's unauthorized operations were "not intentional" and refers to a communication from respondent's insurance agent on June 8, 2023, stating that a renewal policy would be written with an effective date of June 8, 2023. However, the statement fails to explain why respondent had not already ceased operations as of June 2, 2023, when its WMATC Insurance Endorsement terminated without replacement.

The record shows that the suspension order, Order No. 20,234, was sent to respondent by email on June 2, 2023, and was also delivered to respondent by the U.S. Postal Service on June 5, 2023. That order stated that respondent's WMATC Insurance Endorsement had been canceled effective June 2, 2023, and directed that "respondent shall not transport passengers for hire under Certificate No. 3303, unless and until otherwise ordered by the Commission."

Furthermore, 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.

The Commission has no record of any inquiry from respondent prior to June 2, 2023, and respondent has not produced any such written verification.

III. ORDER TO SHOW CAUSE

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.⁹ Each day of the violation constitutes a separate violation.¹⁰

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.¹¹

to revoke certificate of authority of carrier that operated while suspended and underinsured but maintained \$1 million primary insurance coverage throughout the suspension period); *In re Ceepco Contracting, LLC*, No. MP-17-136, Order No. 17,616 at 4 (May 17, 2018) (same).

⁹ Compact, tit. II, art. XIII, § 6(f)(i).

¹⁰ Compact, tit. II, art. XIII, § 6(f)(ii).

¹¹ Compact, tit. II, art. XI, § 10(c).

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.¹² 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.¹³ Employee negligence is no defense.¹⁴ "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.¹⁵

Respondent shall have 30 days to show cause why the Commission should not assess civil forfeitures against respondent totaling \$7,000, and/or suspend or revoke Certificate No. 3303, for knowingly and willfully transporting passengers for hire between points within the Metropolitan District under an invalid/suspended certificate of authority.¹⁶

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. 3303, for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and Order No. 20,234.

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.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS LACKEY AND RICHARD:



Jeffrey M. Lehmann
Executive Director

¹² *In re Jonathan Lee Gerity Sr, t/a Riverside Transp.*, No. MP-16-036, Order No. 16,574 at 5 (Sept. 15, 2016), recon. denied, Order No. 16,710 (Nov. 30, 2016).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *United States v. Illinois Cent. R.R.*, 303 U.S. 239, 244, 58 S. Ct. 533, 535 (1938).

¹⁶ *See, e.g.*, Order No. 19,786 (directing carrier to show cause where documents showed carrier operated while suspended and uninsured).