

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2452

IN THE MATTER OF:

Served August 16, 1983

Application of A.M.A. TOURS, a)
Partnership, for Temporary)
Authority to Conduct Special and)
Charter Operations)

Case No. AP-83-38

Application of A.M.A. TOURS a)
Partnership, for a Certificate of)
Public Convenience and Necessity)
-- Special and Charter Operations)

Case No. AP-83-39

By applications filed June 17, 1983, as amended A.M.A. Tours */ seeks both temporary authority and a certificate of public convenience and necessity to transport passengers, in special and charter operations, between points in the Metropolitan District, delimited as follows:

Sightseeing tours operating between points in the Metropolitan District . . . and related hotel, restaurant and public transportation transfers limited to passengers utilizing [A.M.A.'s] sightseeing services. Equipment to be used will be limited to that with a manufacturer's designed seating capacity of 15 passengers or less.

A.M.A. proposes three sightseeing tours. The city tour includes stops at Ford's Theatre, the White House, Bureau of Engraving and Printing, U. S. Capitol, Supreme Court, Library of Congress, Smithsonian Institution, Lincoln and Jefferson Memorials, and Arlington National Cemetery and riding tours of the Kennedy Center, Georgetown and Embassy Row. A night tour includes the same points except Arlington National Cemetery and those buildings which are not open to the public in the evening. The all-day tour incorporates the city tour plus the City of Alexandria and Mt. Vernon, Va. The prices for these tours and specific transfers are shown below.

*/ General partners are Antulio Arias and Mercedes Arias.

	<u>ADULT FARE</u>	<u>CHILDREN AGES 5-11</u>	<u>CHILDREN UNDER 5</u>
City Tour	\$15.00	\$ 7.50	Free
Night Tour	15.00	7.50	Free
All-Day Tour	25.00	12.50	Free
To or From National Airport	9.00	9.00	Free
To or From Dulles Airport	15.00	15.00	Free

Groups, senior citizens and handicapped persons are eligible for specified discounts.

Applicant proposes to use a 1978 van which seats eight passengers (including the driver). Antulio Arias has held a hacker's license and a class A guide badge from the District of Columbia since 1980. He has been conducting the proposed services on a part-time basis but now proposes full-time operations. A.M.A.'s balance sheet, dated March 31, 1983, shows cash of \$1,000, a vehicle said to have a fair market value of \$6,000, and no liabilities. Its operating statement for calendar year 1982 shows income of \$8,100 and operating expenses of \$6,160 (exclusive of drivers wages) for an operating ratio of 76.06 percent.

In support of these applications, A.M.A. emphasizes the small and informal nature of its tours and the ability of Mr. Arias to speak both Spanish and English.

Several letters supporting the temporary authority application were filed. Ms. Barbara Schindler expresses satisfaction with A.M.A.'s service, and Academic Travel Abroad, Inc., is also complimentary. Atlantic Petrofuels Corporation and Centro Benefico Panamericano state that A.M.A.'s service is continually needed. American Motorhol Supply Corporation and Gramercy Hotel have been assisted by A.M.A. with their transportation needs, and Gramercy Hotel states that its guests are relying upon continued availability of this service.

On June 27, 1983, Beltway Limousine Service, Inc., filed a protest to the temporary authority application stating that it is ready willing and able to provide the proposed service to the extent that Beltway is so authorized. As pertinent, Beltway's Certificate No. 25 authorizes special operations between Washington National Airport and Dulles International Airport, on the one hand, and, on the other, various hotels and motels in northeast Washington, D. C., and Montgomery and Prince George's Counties, Md, and charter operations, in 15-passenger vans, between points in the Metropolitan District.

Babel Travel Service, Inc., also protests the temporary authority application. Babel holds temporary authority to conduct charter operations to the same sector of the transportation market which A.M.A. proposes to serve. Like A.M.A., Babel specializes in providing foreign language tour service with particular emphasis on the Spanish speaking market.

Babel asserts that three of A.M.A.'s supporting firms are all controlled by the same individual and contends that none of the letters establishes any immediate and urgent need as required by Title II, Article XII, Section 4(d)(3) of the Compact. Babel further alleges that A.M.A. is unfit to provide the proposed service inasmuch as (a) its vehicle is too small to meet the requirements of supporting firms such as Academic Travel Abroad, Inc., and (b) A.M.A. has assertedly continued sightseeing operations after being informed by this Commission that such operations should cease until A.M.A. obtained appropriate authority therefor.

With respect to the latter point, we note that, on May 23, 1983, the Commission's Executive Director wrote to applicant stating, inter alia, that "[i]t appears from information brought to our attention [A.M.A. Tours Confidential Tariff for 1982] that you are offering services which constitute passenger transportation for hire subject to this Commission's jurisdiction. Such services must not be conducted without appropriate authority."

Two days later, Mr. Arias spoke personally with the Commission's General Counsel and was advised that the services proposed herein are subject to regulation under the Compact. Mr. Arias was warned that continued unauthorized operations would be criminal violations, and he was instructed to cease and desist such operations until proper authority was granted. Mr. Arias was also instructed on how to apply for authority and was given application forms and a copy of the Compact and the Commission's Rules and Regulations.

On June 15, 1983, Mr. Arias was apprehended by the U. S. Park Police and issued a "Courtesy Tag" for transporting passengers for hire without a WMATC certificate. According to Case Incident No. 023088, a vehicle registered to and driven by Mr. Arias stopped in the 1500 block of Constitution Avenue, N. W., where White House tour tickets were obtained for each of the eight passengers on board. The investigating officer then followed the vehicle to the 900 block of E Street, N. W. (near the FBI Building) where the passengers were discharged. One passenger interviewed by the investigating officer stated that her group had been picked up earlier that morning by Mr. Arias at the Gramercy Inn, 1616 Rhode Island Avenue, N. W.

In response to the Case Incident Report, Mr. Arias filed an affidavit stating that he had arranged for the passengers to be transported by Samuel Howell (who holds temporary authority from this Commission to provide such service) and Tailgate Bus Service (which holds no WMATC authority and which was advised in the past not to perform any operations within the Metropolitan District). According to A.M.A., the Tailgate vehicle suffered an equipment breakdown and Mr. Arias merely "fill(ed) the gap until a replacement vehicle could be provided. . . ." Although a Tailgate vehicle allegedly provided service later in the day, no manifest, cancelled check, receipt or other documentation to support A.M.A.'s contention was submitted. In an oral conversation with the Commission's General Counsel, Mr. Larry Williams, the President of Tailgate, denied providing the subject service and further denied knowing A.M.A. or its partners.

The application for a certificate must be scheduled for a public hearing pursuant to Title II, Article XII, Section 4(b) of the Compact. A.M.A. will be directed to arrange appropriate publication and to pay a sum estimated to cover the cost of its hearing.

Temporary authority, on the other hand, may be granted in our discretion without a hearing where the criteria of Title II, Article XII, Section 4(d)(3) are met. This record does not clearly establish, however, that there exists an immediate and urgent need for service which cannot be met by protestants. Moreover, real questions have been raised about applicant's operational and compliance fitness. Accordingly, we find that scheduling the temporary authority application for simultaneous hearing with the application for a certificate would be the most efficacious way of resolving all the issues in both cases. So that a full record may be developed, we will also direct that applicant provide appropriate business records and that the Executive Director issue a subpoena for Mr. Larry Williams and Mr. Stanley Williams, another principal in Tailgate who, according to applicant, has knowledge of the dealings between A.M.A. and Tailgate, and appropriate business records of Tailgate Bus Service.

THEREFORE, IT IS ORDERED:

1. That A.M.A. Tours is hereby directed to produce for inspection and photocopying all records, books, manifests, service orders, lease agreements, checks, invoices, receipts and other business documents for the period June 1, 1983, through June 30, 1983, at the office of the Commission on Wednesday, September 7, 1983, at 10:00 a.m.

2. That A.M.A. Tours, Antulio Arias, and Mercedes Arias are hereby directed to cease and desist from transporting passengers for hire, directly or indirectly, between any points in the Metropolitan District unless and until there is in force appropriate authority therefor from this Commission.

3. That Case Nos. AP-83-38 and AP-83-39 are hereby scheduled for public hearing to commence on Thursday, September 15, 1983, at 9:30 a.m. in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.

4. That applicant publish once in a newspaper of general circulation in the Metropolitan District notice of this application and hearing, in the form prescribed by the staff of the Commission, no later than Monday, August 22, 1983, and present at the hearing an affidavit of publication from the selected newspaper.

5. That any person desiring to protest either or both of the applications shall file a protest in accordance with Commission Rule No. 14, or any person desiring to be heard on these matters shall so notify the Commission, in writing, no later than Tuesday, September 6, 1983, and shall simultaneously serve a copy of such protest or notice on counsel for applicant, Donald L. Hamer, Esquire, 1735 - 20th Street, N. W., Washington, D. C. 20009.

6. That applicant file with the Commission at 10:00 a.m. on Wednesday, September 7, 1983, four copies of a statement of projected revenue and revenue deductions anticipated from its first 12-month period of operations, simultaneously serve one copy of such statement on each party of record as of Tuesday, September 6, 1983, and produce the original thereof at the public hearing.

7. That applicant is hereby assessed \$750 pursuant to Title II, Article XII, Section 19 of the Compact and is directed to deliver that sum to the office of the Commission, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, at 10:00 a.m. on Wednesday, September 7, 1983.

8. That the Executive Director is hereby directed to issue subpoenas for the appearance of Mr. Larry Williams and Mr. Stanley Williams at said hearing and for the production for photocopying and inspection of all records, books, manifests, service orders, lease agreements, checks, invoices, receipts and other business documents of Tailgate Bus Service for the period June 1, 1983, through June 30, 1983, at a time prior to the said hearing and for the production of all documents found to be pertinent to the issues in these cases at the aforesaid hearing.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director