

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6326

IN THE MATTER OF:

Served August 22, 2001

Application to Transfer Certificate)
No. 425 from ERNEST T. GIVENS,)
Trading as A - TOTAL TRANSPORTATION)
SERVICE, to A-TOTAL TRANSPORTATION)
SERVICE, INC.)

Case No. AP-2001-58

Investigation of Unauthorized)
Transfer of Assets and Operations)
From ERNEST T. GIVENS, Trading as)
A-TOTAL TRANSPORTATION SERVICE,)
WMATC No. 425, to A-TOTAL)
TRANSPORTATION SERVICE, INC.)

Case No. MP-2001-30

Ernest T. Givens, a sole proprietor trading as A - Total Transportation Service, has held WMATC Certificate of Authority No. 425 since March 19, 1998. Mr. Givens has been the president and controlling shareholder of A-Total Transportation Service, Inc. (ATTSI), a Delaware corporation, since October 25, 2000. ATTSI has been registered to conduct business in Maryland since November 13, 2000. When Mr. Givens filed his WMATC annual report for the year 2000, he filed it under ATTSI's name, instead of his own, and attached copies of vehicle registrations in ATTSI's name.

Under Article XI, Section 11, of the Compact, WMATC operating authority may not be leased, rented or otherwise used by anyone other than the person to whom it is issued.¹ The Commission initiated an investigation in Case No. MP-2001-30 to determine whether respondents have violated this provision of the Compact. Order No. 6179, issued April 9, 2001, directed respondents to produce all documents in their possession relating to passenger transportation in the Metropolitan District.

On April 26, 2001, Mr. Givens filed an affidavit admitting the transfer of vehicles to the corporation but explaining that he deposits all revenue from his WMATC operations in his personal checking account and pays all WMATC expenses from that account. Givens admits adding the corporation's name to his personal account but has filed a lease establishing his right to exclusive use of the corporation's vehicles since the transfer.

By application accepted for filing June 19, 2001, Mr. Givens and ATTSI seek Commission approval to transfer Mr. Givens's passenger carrier assets, including Certificate of Authority No. 425, to ATTSI.

¹ Compact, tit. II, art. XI, § 11(b).

Article XI, Section 11(a), of the Compact governs the transfer of assets, including a certificate of authority, by an unincorporated WMATC carrier in exchange for a controlling interest in a newly formed corporation.² A transfer of this nature raises fitness issues only.³

ATTSI proposes commencing operations with nine vans. ATTSI's proposed tariff contains rates for Medicaid transportation and non-Medicaid transportation.

ATTSI filed a balance sheet as of June 15, 2001, showing assets of \$88,500 and no liabilities. ATTSI's projected operating statement for the first twelve months of WMATC operations shows WMATC revenue of \$363,942; expenses of \$315,954; and net income of \$47,988.

ATTSI certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

The Commission finds the evidence adduced in Case No. MP-2001-30 has cast sufficient doubt on the possibility that respondents have violated the Compact, making further investigation unwarranted at this time. Based on the evidence adduced in Case No. AP-2001-58, the Commission finds ATTSI to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements and, therefore, that the transfer of assets, including Certificate No. 425, to ATTSI is consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That Case No. MP-2001-30 and Case No. AP-2001-58 are hereby consolidated.

2. That upon ATTSI's timely compliance with the requirements of this order, Certificate of Authority No. 425 shall be reissued to A-Total Transportation Service, Inc., 6108 Old Silver Hill Road, #210, District Heights, MD 20747, and Case No. MP-2001-30 shall stand terminated.

3. That ATTSI may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate of Authority No. 425 has been reissued in accordance with the preceding paragraph.

4. That ATTSI is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (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

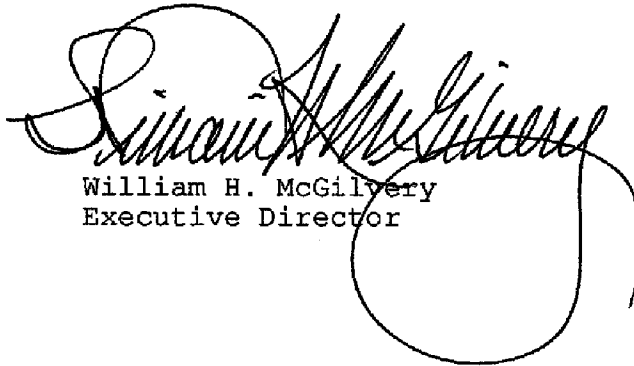
² In re Ira A. Austin, Sr., t/a Ira's Transp. Serv., & Ira's Transp. Serv., Inc., No. AP-97-42, Order No. 5193 (Sept. 9, 1997).

³ Id.

each vehicle to be used in revenue operations; (d) a copy of the vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (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; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

5. That upon ATTSI's failure to timely satisfy the conditions of reissuance prescribed herein, the approval of transfer herein shall be void, the application shall stand denied, and Case No. MP-2001-30 shall be continued.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, LIGON, AND MILLER:



William H. McGilvery
Executive Director