

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7273

IN THE MATTER OF:

Served June 26, 2003

ATLANTIC AIRPORT SHUTTLE, INC., )  
WMATC No. 559, and BORJA & GARCIA )  
ENTERPRISES INC., Trading as )  
ATLANTIC AIRPORT SHUTTLE, )  
Investigation of Unauthorized )  
Transfer )

Case No. MP-2003-61

This investigation is being initiated to determine whether respondents have violated the Compact by transferring the assets and operations of Atlantic Airport Shuttle, Inc., and/or Certificate of Authority No. 559, to Borja & Garcia Enterprises Inc., trading as Atlantic Airport Shuttle, without Commission approval.

Atlantic Airport Shuttle, Inc., is the owner of Certificate of Authority No. 559. The 2003 annual fee for WMATC Carrier No. 559 was paid with a check drawn on the account of Borja & Garcia Enterprises Inc., a Virginia corporation incorporated on April 5, 2002.

Records obtained from the Taxpayer Services Division of the Maryland Department of Assessments and Taxation show that Borja & Garcia Enterprises Inc. registered with Maryland on April 10, 2002, as a foreign corporation doing business under the trade name Atlantic Airport Shuttle. It further appears from the Maryland records that the two corporations share common owners and officers.

Under the Compact, a person may not transfer a certificate of authority unless the Commission approves the transfer as consistent with the public interest.<sup>1</sup> A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority.<sup>2</sup> A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District.<sup>3</sup>

Commission staff advised respondents to file a transfer application on or before April 4, 2003. Respondents have yet to reply or file an application.

---

<sup>1</sup> Compact, tit. II, art. XI, § 11(a).

<sup>2</sup> Compact, tit. II, art. XI, § 11(b).

<sup>3</sup> Compact, tit. II, art. XII, § 3(a)(ii).

The Commission may investigate whether a person has violated the Compact and for the purpose of an investigation "may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry."<sup>4</sup> In addition, the Commission "shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes."<sup>5</sup>

If the Commission finds a person has violated the Compact, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.<sup>6</sup> A person who knowingly and willfully violates a provision of the Compact is subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for each subsequent violation.<sup>7</sup> Each day of the violation counts as a separate violation.<sup>8</sup> The Commission may suspend or revoke a certificate of authority for willful failure to comply with the Compact or Commission rule, regulation or order thereunder.<sup>9</sup>

We shall direct respondents to produce any and all records and documents in their possession, custody or control relating to transportation of passengers for hire between points in the Metropolitan District during the period beginning April 5, 2002, and ending on the date of this order. We also shall direct respondents to present their vehicles for inspection.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondents and their operations in the Washington Metropolitan Area Transit District is hereby initiated under Article XIII, Section 1, of the Compact.

2. That Borja & Garcia Enterprises Inc., trading as Atlantic Airport Shuttle, is hereby directed to refrain from, and/or cease and desist from, transporting passengers for hire between points in the Metropolitan District unless and until otherwise ordered by the Commission.

3. That respondents are hereby directed to produce, within thirty days from the date of this order, any and all books, papers, correspondence, memoranda, contracts, agreements, and other records

---

<sup>4</sup> Compact, tit. II, art. XIII, § 1(c), (e).

<sup>5</sup> Compact, tit. II, art. XII, § 1 (b).

<sup>6</sup> Compact, tit. II, art. XIII, § 1(d).

<sup>7</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>8</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>9</sup> Compact, tit. II, art. XI, § 10(c).

and documents, including any and all stored electronically, that are within respondent's possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning April 5, 2002, and ending on the date of this order, including, but not limited to any and all:

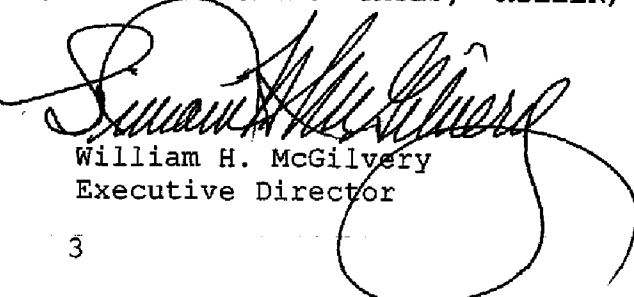
- a. customer contracts and invoices;
- b. invoices from other carriers;
- c. evidence of communications, including telephone logs, facsimile transmissions, and correspondence;
- d. calendars and itineraries;
- e. bank records;
- f. payroll records;
- g. insurance documents;
- h. advertising materials;
- i. internal corporate documents, such as articles of incorporation, bylaws, and minutes;
- j. income tax and personal property returns; and
- k. USDOT Forms MCS-150.

4. That within thirty days from the date of this order, respondents shall present their vehicles for inspection by Commission staff.

5. That Certificate of Authority No. 559 shall be automatically suspended upon either respondent's failure to timely respond to this order.

6. That in the event Certificate of Authority No. 559 is suspended pursuant to the preceding paragraph, Atlantic Airport Shuttle, Inc., shall have thirty days thereafter to show cause why Certificate of Authority No. 559 should not be revoked for failure to comply with the requirements of this order.

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

  
William H. McGilvery  
Executive Director