

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7377

IN THE MATTER OF:

Served August 27, 2003

COMMUNITY ALLIANCES, INCORPORATED, )  
Investigation of Unauthorized )  
Operations )

Case No. MP-2003-89

This investigation is being initiated to determine whether respondent has violated Article XI, Section 6(a), of the Compact.

Article XI, Section 1, of the Compact provides that: "This Act shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District." Article XI, Section 6(a), of the Compact provides that: "A person may not engage in transportation subject to this Act unless there is in force a 'Certificate of Authority' issued by the Commission authorizing the person to engage in that transportation."

Respondent applied for a certificate of authority in December of 2001. The application was supported by an intermediate care facilities (ICF) contract with the District of Columbia Department of Health, Medical Assistance Administration (MAA). Under applicable DC regulations, an ICF must be within easy walking distance of public transportation, or the ICF operator must "demonstrate that it can provide transportation for its residents."<sup>1</sup> Respondent proposed providing the transportation itself.<sup>2</sup>

Respondent's application was conditionally granted in Order No. 6588, served March 27, 2002,<sup>3</sup> subject to the requirement that applicant file certain documents within thirty days. In the meantime, respondent was instructed not to transport passengers for hire between points in the Metropolitan District unless and until a certificate of authority had been issued. When respondent failed to file all of the required documents within 180 days, the conditional grant became void pursuant to Regulation No. 66.

On November 18, 2002, some two months after respondent's application became void, respondent sought to file with the Commission a copy of a group home license. Commission staff advised respondent by letter dated November 20, 2002, that the conditional grant had expired September 23, 2002. Staff recommended that respondent consider filing a new application. Respondent did not reply.

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<sup>1</sup> 22 D.C.M.R. § 3501.3.

<sup>2</sup> The Commission has held that transportation conducted under an ICF agreement falls under the Commission's jurisdiction. In re VOCA Corp. of Wash., D.C., No. AP-96-14, Order No. 4851 (May 21, 1996).

<sup>3</sup> In re Community Alliances, Inc., No. AP-01-119, Order No. 6588 (Mar. 27, 2002).

Commission staff repeated its recommendation to respondent in a letter dated March 24, 2003, after receiving a copy of correspondence from MAA to respondent confirming this Commission's jurisdiction over transportation conducted under an ICF contract. MAA was responding to an inquiry from respondent dated January 31, 2003, in which respondent questioned our jurisdiction while admitting transporting group home residents "to medical appointments, day programs and the like." Respondent's letter also explained that respondent was "in the process of developing a second ICF/MR home." Respondent did not reply to staff's March 24 letter, and recent correspondence from MAA staff indicates that respondent is still transporting group home residents under its ICF contract with MAA.

The Commission may investigate on its own motion a fact, condition, practice, or matter to determine whether a person has violated or will violate a provision of the Compact or a rule, regulation, or order.<sup>4</sup> For the purpose of an investigation or other proceeding under the Compact, the Commission may administer oaths and affirmations, subpoena witnesses, compel its 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>5</sup> The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.<sup>6</sup>

If the Commission finds that a respondent has violated a provision of the Compact or any requirement established under it, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.<sup>7</sup> 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.<sup>8</sup>

We shall direct respondent to produce any and all records and documents in its possession, custody or control relating to transportation of passengers for hire between points in the Metropolitan District during the period beginning November 20, 2002, and ending on the date of this order.

THEREFORE, IT IS ORDERED:

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

2. That respondent is hereby directed to refrain from, and/or cease and desist from, transporting passengers for hire between points

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

<sup>2</sup> Compact, tit. II, art. XIII, § 1(e).

<sup>6</sup> Compact, tit. II, art. XII, § 1(b).

<sup>7</sup> Compact, tit. II, art. XIII, § 1(d).

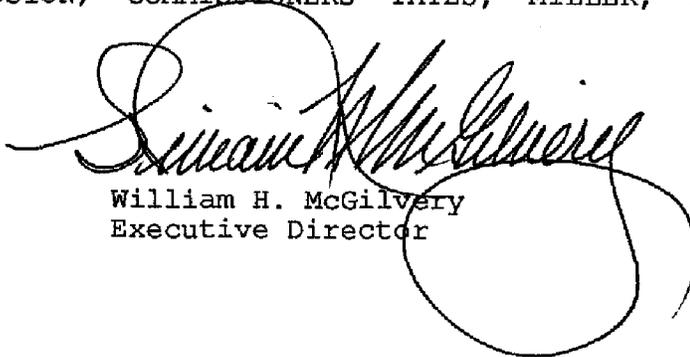
<sup>8</sup> Compact, tit. II, art. XIII, § 6(f).

in the Metropolitan District, and advertising such service, unless and until otherwise ordered by the Commission.

3. That respondent is 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 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 November 20, 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.

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



William H. McGilvery  
Executive Director