

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7576

IN THE MATTER OF:

Served December 2, 2003

Application of ABDUL AZIZ )  
JALLOW, Trading as RIGHT WAY )  
TRANSPORTATION, for a Certificate )  
of Authority — Irregular Route )  
Operations )

Case No. AP-2003-109

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If an applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>1</sup> A determination of compliance fitness is prospective in nature.<sup>2</sup> The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.<sup>3</sup> Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.<sup>4</sup>

Commission records indicate applicant previously conducted passenger carrier operations in the Metropolitan District as an officer and director of ACEP Group Incorporated, WMATC No. 548. The Commission revoked Certificate No. 548 and assessed a \$2,500 civil forfeiture against ACEP earlier this year for knowingly and willfully violating the Compact by operating while suspended and uninsured during August 2002. ACEP paid \$1,000 on April 3, 2003, but still owes \$1,500. The initial order in this proceeding, Order No. 7438,

<sup>1</sup> In re Nevah Transports, LLC, No. AP-02-121, Order No. 7001 (Jan. 21, 2003).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> In re ACEP Group Inc., No. MP-02-128, Order No. 7069 (Mar. 4, 2003).

directed applicant to file a notarized statement explaining why the Commission should find applicant fit as to regulatory compliance given applicant's history of regulatory violations and why the Commission should approve this application as consistent with the public interest given ACEP's unpaid forfeiture of \$1,500.

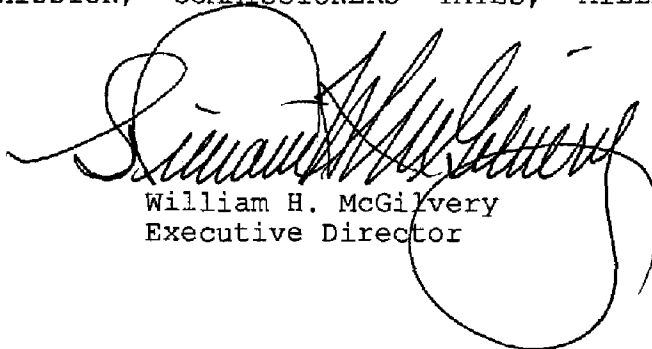
Applicant's defense appears to be that he was not in control of ACEP at the time the violations were committed. Applicant contends that he separated from his wife, ACEP shareholder and CEO Robin Jallow, in May 2001 and that he sold his ACEP shares to her at that time. Applicant has proffered certain shareholder documents to support his claim, but the documents are not persuasive. First, the share certificate purportedly representing the ACEP shares held by applicant is dated the 5<sup>th</sup> of April, 2000, but ACEP was not incorporated until December 28, 2000. Second, a cash receipt signed by Robin Jallow on May 12, 2001, states that she received \$6,000 from applicant for her shares in ACEP Group, Inc., not the other way around. Third, applicant's claim of separation in this proceeding is contradicted by Ms. Jallow's affidavit in the investigation which states that the ACEP violations occurred while Ms. Jallow and her "husband" were out of town tending to Ms. Jallow's ill mother.

In any event, applicant's signature appears on several revenue vehicle leases filed with the Commission on March 1, 2002, in response to Commission Order No. 6511, served January 29, 2002, which approved ACEP's application to acquire Certificate No. 548 from Ms. Jallow, who had held it as a sole proprietor since August 9, 2000. The leases are signed by applicant on behalf of the corporation, clearly identify the corporation as the owner of Certificate No. 548 and include vehicle inspection certificates dated October 2001 and January 2002. One of the leases did not commence until May 24, 2001 -- three days after applicant allegedly divested his interest in ACEP. Furthermore, applicant is listed on ACEP's August 12, 2002, insurance application as one of ACEP's drivers, along with CEO Robin Jallow. In short, there is no evidence in the record to show that applicant was no longer an officer and director of ACEP when ACEP violated the Compact and the Commission ordered ACEP to pay the \$2,500 forfeiture -- and ample evidence that he was.

Under the circumstances, we cannot say the applicant has met his burden on the issue of regulatory compliance fitness.

THEREFORE, IT IS ORDERED that the application of Abdul Aziz Jallow, trading as Right Way Transportation, for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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



William H. McGilvery  
Executive Director