

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7854

IN THE MATTER OF:

Served March 12, 2004

ZAINABU KAMARA, Trading as NALLAH )  
TRANSPORTATION EXPRESS, WMATC )  
No. 506, and NALLAH TRANSPORTATION )  
EXPRESS, INC., Investigation of )  
Unauthorized Transfer )

Case No. MP-2003-62

Application of NALLAH )  
TRANSPORTATION EXPRESS INC. to )  
Acquire Certificate No. 506 from )  
ZAINABU KAMARA, Trading as )  
NALLAH TRANSPORTATION EXPRESS )

Case No. AP-2003-96

This matter is before the Commission on respondents' response to Order No. 7538, served November 17, 2003, which directed Nallah Transportation Express, Inc., to file a report within fifteen days verifying cessation of operations.

Order No. 7538 also gave respondents thirty days to show cause why the Commission should not assess a civil forfeiture and suspend or revoke Certificate No. 506 for knowing and willful violations of Article XI, Section 11(b), and Article XII, Section 3(a), of the Compact, Regulation No. 61 (marking of revenue vehicles) and Order No. 7274, and why the application to transfer Certificate No. 506 should not be denied for failure to establish regulatory compliance fitness

**I. BACKGROUND**

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>

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<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).

Certificate of Authority No. 506 was issued to Zainabu Kamara, a sole proprietor trading as Nallah Transportation Express, on December 9, 1999, pursuant to Commission Order No. 5741.<sup>4</sup> On February 5, 2003, Ms. Kamara filed her 2002 annual report in the name of "Nallah Transportation Express, Inc." Records obtained from the Taxpayer Services Division of the Maryland Department of Assessments and Taxation confirmed that Ms. Kamara had formed a corporation on January 5, 2000. By letter dated March 5, 2003, Commission staff advised respondents to file a transfer application on or before March 25, 2003.

We initiated this investigation in Order No. 7274, served June 26, 2003, after respondents failed to reply to staff's letter. The order gave respondents thirty days to present their vehicles for inspection<sup>5</sup> and 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 January 5, 2000, and ending on June 26, 2003.<sup>6</sup> The order also directed Nallah Transportation Express, Inc., 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.

Respondents produced a van on July 18, 2003, and responsive documents on July 28, 2003. The van displayed Ms. Kamara's WMATC number and the name "Nallah Transportation Express, Inc." The documents -- including insurance records, bank statements, cancelled checks, payroll records and tax returns -- showed substantial transportation-related activity on the part of the corporation and little or no transportation-related activity on the part of Ms. Kamara. Based on the evidence thus produced by respondents, we found in Order No. 7538 that Nallah Transportation Express, Inc., conducted operations under Certificate No. 506 from January 5, 2000, until at least June 26, 2003.

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<sup>4</sup> In re Zainabu Kamara, t/a Nallah Transp. Express, No. AP-99-67, Order No. 5741 (Nov. 9, 1999).

<sup>5</sup> See Compact, tit. II, art. XII, § 1(b) (Commission shall have access at all times to equipment of any carrier for inspection purposes).

<sup>6</sup> See Compact, tit. II, art. XIII, § 1(c),(e) (Commission may investigate whether a person has violated the Compact and for the purpose of an investigation may "require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry"); art. XII, § 1(b) (Commission shall have access at all times to accounts, records, and memoranda of any carrier for inspection purposes).

## II. RESPONSE TO ORDER NO. 7538 AND FINDINGS

By affidavits filed December 4 and 17, 2003, Ms. Kamara acknowledges receiving staff's March 5, 2003, letter and admits that she "continued to do business in the corporate name" even after receiving the June 26, 2003, cease and desist order, Order No. 7274. Ms. Kamara also admits that she made no effort to reestablish the operations as her own, in her capacity as a sole proprietor, until November 29, 2003, when she opened a bank account in the name of Zainabu Kamara d/b/a/ Nallah Transportation Express. As for why it took the corporation five months to cease and desist, Ms. Kamara states that she believed that she "was not in the wrong".

Disobeying a Commission order simply because one believes she is not in the wrong is not an option under the Compact. If carriers could pick and choose which Commission orders to obey and which to ignore, anarchy would rule. Inasmuch as this is the only explanation for not complying with Order No. 7274, we find respondents have not shown good cause for avoiding assessment of a civil forfeiture, revocation of Certificate No. 506 and denial of the transfer application.

We shall assess a forfeiture of \$250 per day<sup>7</sup> for one hundred fifty-three days of unauthorized operations, or \$38,250. In consideration of the corporation's apparent lack of profit,<sup>8</sup> production of inculpatory evidence and the filing of a transfer application shortly after this investigation was initiated,<sup>9</sup> we will suspend all but \$2,500.<sup>10</sup>

### THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a net civil forfeiture against respondents, jointly and severally, in the amount of \$2,500, for knowingly and willfully violating Article XI, Section 11(b), and Article XII, Section 3(a), of the Compact, Regulation No. 61 and Order No. 7274.

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<sup>7</sup> See In re Great American Tours, Inc., & The Airport Connection, Inc. II, & Airport Baggage Carriers, Inc., No. MP-96-54, Order No. 5065 (Apr. 24, 1997) (assessing \$250 per day for unauthorized operations).

<sup>8</sup> The corporation's federal income tax returns for 2001 and 2002 combined show a net loss.

<sup>9</sup> Order No. 7274 was issued June 26, 2003. The transfer application was first filed on July 9, 2003.

<sup>10</sup> See Order No. 5065 (reducing forfeiture from \$65,750 to \$3,000 in light of respondent's cooperation in investigation and filing of application).

2. That respondents are hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of two thousand five hundred dollars (\$2,500).

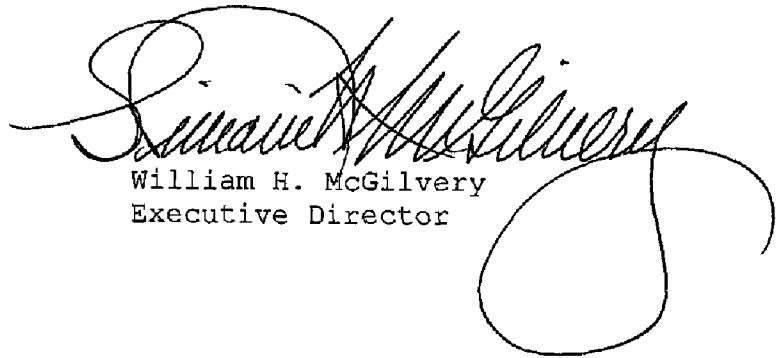
3. That the application of Nallah Transportation Express, Inc., to obtain Certificate No. 506 is denied.

4. That Certificate of Authority No. 506 is hereby revoked.

5. That within 30 days from the date of this order respondents shall remove from their vehicles the identification placed thereon pursuant to Commission Regulation No. 61 and file a notarized affidavit with the Commission verifying compliance.

6. That the full forfeiture of \$38,250, as assessed in this order, shall be immediately due and payable in the event respondents do not timely comply with this order.

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



William H. McGilvery  
Executive Director