

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7949

IN THE MATTER OF:

Served April 20, 2004

Application of ELITE)
TRANSPORTATION, INC., for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2003-137

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.¹ The past conduct of owners and officers is relevant to a determination of applicant's compliance fitness.²

~~The initial order in this proceeding noted that applicant's street address is the same as that for CAWEO Transportation Services, Inc., ("CAWEO-DC"), and that applicant's president, Charles Osong, has the same surname as Ms. Emma Osong, the vice president for Central African Women Empowerment Organization Corp., trading as CAWEO Transportation Services, WMATC No. 558 ("CAWEO-MD"). Because an investigation of CAWEO-DC and CAWEO-MD was pending at the time this application was filed, the initial order in this proceeding directed applicant to file a statement explaining its relationship with both companies. Mr. Osong filed a short statement soon thereafter.~~

¹ In re Adventures By Dawn L.L.C., No. AP-99-68, Order No. 5837 (Mar. 14, 2000).

² Id.

The investigation of CAWEO-DC and CAWEO-MD has resulted in a finding that both companies knowingly and willfully violated the Compact.³ Mr. Osong's explanation of applicant's relationship with CAWEO-DC and CAWEO-MD must be viewed in that light.

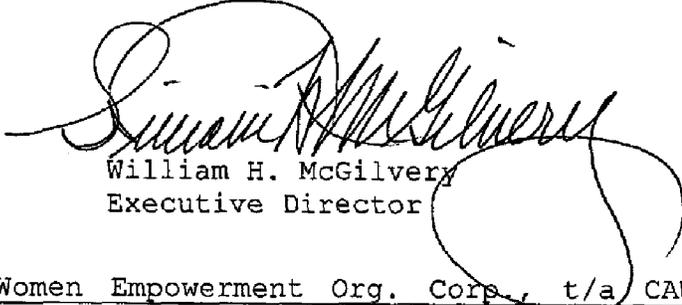
Mr. Osong explains that Emma Osong is his sister-in-law and that she has nothing to do with applicant. But this does not explain what involvement Mr. Osong had with CAWEO-MD when it violated the Compact by, among other things, unlawfully performing a contract with LogistiCare Solutions, LLC. The record in the investigation shows that "cosong@caweo.org" was a point of contact for LogistiCare, suggesting that Mr. Osong occupied a position of responsibility with CAWEO-MD at or about the time CAWEO-MD violated the Compact.

Mr. Osong also explains that he is applicant's only officer and that applicant is temporarily sharing office space with CAWEO-DC while searching for "permanent and independent" quarters. But this does not explain why applicant's temporary vehicle registration was signed on behalf of applicant not by Mr. Osong but by Gerald Nkwako, who was president of CAWEO-DC at the time the vehicle was purchased on September 30, 2003, and at the time this application was filed on October 22, 2003.

The bottom line is that Mr. Osong's terse responses to the Commission's inquiries into these compliance-related matters appear calculated to reveal less rather than more. They do not rise to the level of disclosure expected of an applicant who bears the burden of production and persuasion on the issue of fitness to serve the public. Until Mr. Osong is more forthcoming with a full and detailed explanation of the issues discussed above, we cannot say that his company has met its burden of proof.⁴

THEREFORE, IT IS ORDERED that the application of Elite Transportation, Inc., 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

³ In re Central African Women Empowerment Org. Corp., t/a CAWEO Transp. Servs., No. MP-03-65, Order No. 7948 (Apr. 20, 2004).

⁴ See In re The SALTS Corp., No. AP-03-141, Order No. 7754 (Feb. 20, 2004) (application dismissed for failure to disclose information about related entity).