

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8058

IN THE MATTER OF:

Served June 3, 2004

BABIKIR IBRAHIM ELHAG, Trading as )  
"BTS" BABCARE TRANSPORT SERVICES, )  
Suspension and Investigation of )  
Revocation of Certificate No. 672 )

Case No. MP-2004-01

This matter is before the Commission on respondent's response to Order No. 7891, served March 23, 2004.

**I. BACKGROUND**

Under the Compact, a certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.<sup>1</sup> Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 672 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 672 became invalid on January 6, 2004, when the \$1.5 million WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 7648, served January 7, 2004, noted the automatic suspension of Certificate No. 672 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 672, and gave respondent thirty days to replace the expired endorsement or face revocation of Certificate No. 672. Respondent submitted a \$1.5 million replacement endorsement on February 11, 2004. The effective date of the new endorsement is January 11, 2004. This means that respondent was without insurance coverage for five days, from January 6, 2004, through January 10, 2004.

Order No. 7760, served February 20, 2004, gave respondent thirty days to furnish proof that he ceased operations as of January 7, 2004. Inasmuch as respondent's only tariff is for service rendered to clients of the District of Columbia Department of Health, Medical Assistance Administration (DC Medicaid), such proof was to include confirmation from DC Medicaid. Respondent failed to produce any exculpatory evidence. On the contrary, in response to an inquiry from Commission staff, DC Medicaid responded that respondent had "billed approximately 23 claims totaling \$3,072.50 since [the] suspension date" and that "[a]ll were denied on the 2/1 and 2/13 cycles." A written statement from respondent filed February 25, 2004, all but confirmed the failure to cease operating as of

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

January 7, 2004. Accordingly, Certificate No. 672 was revoked March 23, 2004, in Order No. 7891. Respondent now requests that the Commission reconsider that order.

## II. RECONSIDERATION

Under Title II of the Compact, Article XIII, Section 4(a), a party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for reconsideration.

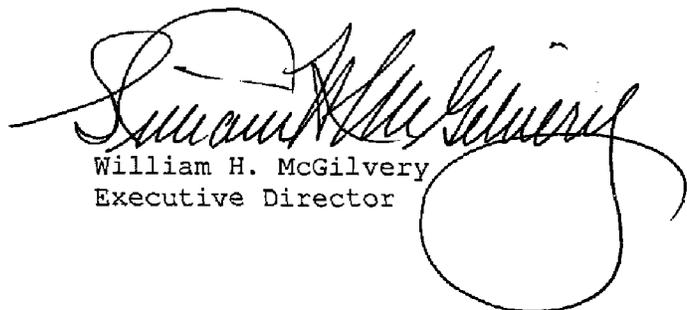
Respondent filed his application for reconsideration on April 22, 2004,<sup>2</sup> but the application does not allege any error on the part of the Commission, and the grounds for reconsideration, that respondent did not transport DC Medicaid passengers during the time in question but rather "arranged for their transportation by taxicab," would be more believable if supported by affidavits from the passengers and by receipts or other documents obtained from the company or companies operating the alleged taxicabs.

In any event, we do not see how it is consistent with the public interest for respondent to submit invoices to DC Medicaid for "ambulatory van" or "wheelchair van" service pursuant to respondent's WMATC tariff for service that respondent did not render. And absent any evidence of consent from DC Medicaid, we do not see how it is consistent with the public interest for respondent to assign DC Medicaid passengers to taxicab operators who have not been shown to be bound by the "providers manuals and instructions" that bind respondent pursuant to respondent's agreement with DC Medicaid. Indeed, given our understanding that the DC taxicab zone rate system generally produces cheaper fares than DC Medicaid's van rates, it seems unlikely that DC Medicaid would assign passengers to a van operator in the first place if taxicab transportation was a suitable alternative.

The application for reconsideration is denied.

IT IS SO ORDERED.

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



William H. McGilvery  
Executive Director

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<sup>2</sup> An untimely supplement was filed April 23, 2004. See In re Worku G. Legesse, t/a Phyladelphia Transport, No. MP-03-80, Order No. 7514 (Nov. 5, 2003) (to be considered part of an application for reconsideration supporting documents must be filed within statutory period for filing the application itself).