

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8186

IN THE MATTER OF:

Served July 23, 2004

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

Case No. MP-2003-89

This matter is before the Commission on respondent's failure to respond to Order No. 7377, served August 27, 2003.

I. BACKGROUND

This investigation was initiated to determine whether respondent violated Article XI, Section 6(a), of the Compact.¹

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."² Respondent proposed providing the transportation itself.³

Respondent's application was conditionally granted in Order No. 6588, served March 27, 2002,⁴ 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.

¹ 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."

² 22 D.C.M.R. § 3501.3.

³ 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).

⁴ In re Community Alliances, Inc., No. AP-01-119, Order No. 6588 (Mar. 27, 2002).

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.

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 the Commission's 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, 2004, letter, and subsequent correspondence from MAA staff indicated that respondent may have continued transporting group home residents under its ICF contract with MAA.

Order No. 7377 accordingly directed 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 August 27, 2003.

II. ADDITIONAL EVIDENCE AND FINDINGS

According to records furnished by MAA, respondent operated two facilities under contracts with MAA. One of the contracts was terminated November 7, 2003. The other was terminated February 26, 2004. The MAA records, however, do not indicate whether respondent was reimbursed for transportation expenses prior to termination, and respondent has not produced the records mandated by Order No. 7377 that would enable the Commission to make that determination.

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.⁵ "Knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁶ "Willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard.⁷ Employee negligence is no defense.⁸

⁵ Compact, tit. II, art. XIII, § 6(f).

⁶ In re Imperial Travel & Limo. Servs., Inc., No. MP-03-48, Order No. 7748 (Feb. 17, 2004).

⁷ Id.

⁸ Id.

According to the most recent information available from the District of Columbia Department of Consumer and Regulatory Affairs, respondent's corporate charter is still active, and the record shows that applicant was served with Order No. 7377 at the last known address in the Commission's files. The Commission, therefore, will assess a forfeiture of \$250 against respondent for knowingly and willfully violating Order No. 7377.⁹

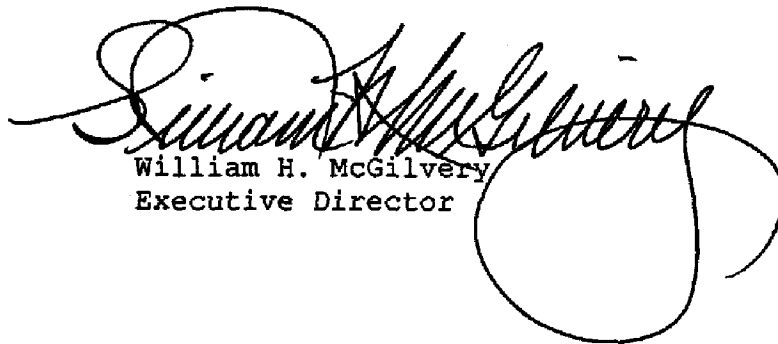
THEREFORE, IT IS ORDERED:

1. That the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Commission Order No. 7377.

2. That respondent is 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 hundred fifty dollars (\$250).

3. That respondent is hereby directed to refrain from, and/or cease and desist from, transporting passengers for hire between points in the Metropolitan District, and advertising such service, unless and until otherwise ordered by the Commission.

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


William H. McGilvery
Executive Director

⁹ See id. (civil forfeiture of \$250 assessed for disobeying order to produce documents).