

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8532

IN THE MATTER OF:

Served January 28, 2005

Application of GLORIA SODIPO,)
Trading as RIGHT WAY)
TRANSPORTATION, for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2004-75

This matter is before the Commission on applicant's request for reconsideration of the voiding of authority conditionally granted to applicant in Commission Order No. 8098, served June 16, 2004.

Commission Regulation No. 66 provides that: "The time for compliance with the requirements for a conditional grant of authority will not be extended beyond a maximum of 180 days from the date the conditional grant of authority is issued. Such conditional grant of authority shall be considered void effective on the 181st day." As of December 13, 2004, applicant had not fully complied with the condition in Order No. 8098 that applicant file certain documents. Accordingly, the conditional grant became void on December 14, 2004.

Under 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 the reconsideration. Although publication of a final decision is normally accomplished by issuing an order, the voiding of a conditional grant occurs automatically by application of Regulation No. 66. There is no tangible utterance other than the rule itself. Deeming publication to occur on the 181st day, when an applicant knows or should know that the Commission now considers the conditional grant void, is reasonable under the circumstances.¹

Applicant timely filed the application for reconsideration on January 3, 2005. Applicant argues that she complied with Order No. 8098 within the 180 days permitted by Regulation No. 66 but concedes the presence of some irregularities in the documents timely submitted. Indeed, among those documents was applicant's December 13 affidavit asserting compliance with Regulation No. 61, which requires each WMATC

¹ In re Boone-McNair Transp., LLC, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

carrier to display on both sides of each revenue vehicle the carrier's name or trade name and the carrier's WMATC number.² The markings must be legible from a distance of fifty feet.³ Markings less than two and one-half inches in height are presumed not to be legible from that distance.⁴ The Commission has held that two-inch markings do not meet the fifty-foot test.⁵ The application for reconsideration admits that as of December 13, the markings on applicant's vehicle were less than two inches high. Accordingly, the application for reconsideration is denied for lack of error.

However, inasmuch as applicant has since fully satisfied the condition of issuance prescribed in Order No. 8098, we may elect to reopen this proceeding on our own initiative⁶ and issue Certificate of Authority No. 958.⁷ We decline to do so, however, for the following reason.

The sole vehicle that applicant proposes operating is being leased from Robin Jallow. According to Commission records, Ms. Jallow is the CEO of ACEP Group Incorporated, WMATC No. 548. In March of 2003, the Commission assessed a civil forfeiture against ACEP in the amount of \$2,500 for knowingly and willfully violating Article XI, Section 6(a), of the Compact.⁸ The Commission also revoked Certificate No. 548 on the same grounds.⁹ Ms. Jallow was CEO of ACEP both when the violations occurred and when the forfeiture was assessed. ACEP paid \$1,000 of the forfeiture in April of 2003, but the Commission has no record of receiving the remaining \$1,500. Under the circumstances, we are not inclined to permit Ms. Jallow to profit from her relationship with applicant so long as ACEP is not in good standing with the Commission.¹⁰

² Regulation No. 61-01.

³ Regulation No. 61-02.

⁴ Id.

⁵ In re Rulemaking to Amend Reg. No. 61 & Reg. No. 62, No. MP-03-08, Order No. 7015 (Jan. 27, 2003); In re Paramed Medical Transp., Inc., No. MP-02-50, Order No. 7012 (Jan. 24, 2003); In re Great American Tours, Inc., & The Airport Connection, Inc. II, & Airport Baggage Carriers, Inc., No. MP-96-54, Order No. 5007 (Jan. 23, 1997).

⁶ Commission Rule No. 26-04.

⁷ See Order No. 7063 (proceeding reopened to issue certificate of authority).

⁸ In re ACEP Group Inc., No. MP-02-128, Order No. 7069 (Mar. 4, 2003), aff'd, Order No. 7137 (Apr. 18, 2003).

⁹ Id.

¹⁰ See In re Adventures By Dawn L.L.C., No. AP-00-89, Order No. 6087 (Jan. 16, 2001) (application not approved until after applicant terminated leasehold relationship that may have benefited one or more persons not in good standing with Commission).

THEREFORE, IT IS ORDERED that the application for reconsideration is denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND MILLER:



William S. Morrow, Jr.
Executive Director