

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3479

IN THE MATTER OF:

Served March 29, 1990

AMERICAN COACH LINES, INC., v. EASY)  
TRAVEL, INC. )

Case No. FC-89-03

On November 20, 1989, American Coach Lines, Inc., a Virginia corporation, (ACL-VA) filed this formal complaint against Easy Travel, Inc. (ETI), 1/ alleging that ETI has transported passengers for hire between points in the Metropolitan District without a certificate of public convenience and necessity authorizing such transportation. 2/ ACL-VA asks that the Commission order ETI to cease and desist from providing passenger transportation without appropriate authority and for such other relief as to the Commission seems just.

In answer to the complaint ETI responds that it owns two vans, one of which was mentioned in the complaint. 3/ However, ETI denies all allegations regarding provision of transportation within the Metropolitan District. In support of its answer ETI's president attests that ". . . it did not operate the said white Ford van or any other van on November 16, 1989 to provide tour of services [sic] or for any other purpose."

By Order No. 3444, served December 21, 1989, and incorporated herein by reference, the Commission, noting (1) the requirements of the Compact, Title II, Article XII, Section 13(a); (2) the existence of disputed facts; and (3) ACL-VA's proffer of live witnesses, directed ACL-VA to file affidavits from the proffered live witnesses establishing clearly the basis for ACL-VA's complaint. The purpose of

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1/ The complaint is addressed to Easy Travel. Based on information contained in the complaint, the Commission has treated it as a complaint addressed to Easy Travel, Inc., holder of WMATC Certificate No. 162.

2/ Specifically ACL-VA alleged ". . . Easy Travel has been operating two vehicles providing transportation services of passengers between points in the Metropolitan District. Those vehicles are a blue Ford van, bearing Virginia license plate QIE-751 and a white Ford van, bearing New York license plate 2FW-286. The white Ford van was observed at the Lincoln Memorial on November 16, 1989, providing tourist service."

3/ This was not the vehicle in which ACL-VA alleged passengers were "seen."

ordering submission of affidavits was to aid the Commission in determining whether any reasonable grounds for an investigation exist. The affidavits were to be filed no later than January 5, 1990. 4/

On January 9, 1990, ACL-VA filed four affidavits. Ms. Joyce Darrell, identifying herself as manager of "Babel Travel Service" and of "Babel Tours," filed two separate affidavits. According to Ms. Darrell, on December 18, 1989, a couple requested transportation from Washington Dulles International Airport to a hotel in the District of Columbia. The couple held a voucher issued by a travel agency in Brazil. The voucher, issued November 6, 1989, through an agency in Rutherford, NJ, indicated that Babel Travel Service would provide two airport transfers and a half-day sightseeing tour. Ms. Darrell states, "I did not have a vehicle dispatched to pick up this couple." Ms. Darrell phoned the president of the "New York" agency and was told the couple's transportation would be handled by Easy Travel. On January 3, 1990, Ms. Darrell received a phone call pertaining to a family holding a voucher issued December 19, 1989. The voucher indicates that arrangements had been made for service similar to that described in the November 6 voucher through the same "New York" tour broker and Brazilian travel agency. With regard to Babel's role in this, Ms. Darrell states, "I did not have this family on my schedule." In response to a phone call to the tour broker, Ms. Darrell was informed that Easy Travel would conduct the tour. Two persons identifying themselves as full-time employees at "American/Babel" filed identical affidavits stating that on November 14 and 15, 1989, each had seen two Ford vans in front of the Air and Space Museum, Lincoln Memorial, and in Arlington Cemetery ". . . carrying Spanish Tourist." The affidavits further stated that a former Babel employee drove. Both vans were seen later at 6637 Osborne Street, Falls Church, VA.

On January 26, 1990, ETI moved to dismiss the complaint on the grounds that ACL-VA made only a single specific allegation in its original complaint, i.e., that ETI operated a specific vehicle ". . . providing tourist service" on November 16, 1989, that ETI denied the allegation, and that ACL-VA offered no evidence to rebut ETI's president's original affidavit, ". . . thereby tacitly admitting that there is no evidence to support ACL's original allegation." ETI also requests dismissal on the ground that complainant's request is now moot. ACL-VA prayed as relief that the Commission order ETI to cease and desist from providing passenger transportation in the Metropolitan District without appropriate authority, and ETI now holds WMAIC Certificate No. 162. ETI's president did concede that during the last quarter of 1989 ETI "handled" tour arrangements in Washington for City Tours (the Rutherford NJ tour broker) by referring customers to Baron Transportation, Diplomat Limousine, or Greyhound as appropriate. ETI's president further attested that the driver referred to in the affidavits of ACL-VA's drivers had been in training to become an

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4/ ACL-VA filed a motion for extension of time for filing the affidavits stating as grounds that "[t]hose affidavits [required by Order No. 3444] are drafted, however, due to illness, the execution and notarization thereof has not been able to be accomplished as of yet."

employee of ETI and "may" have on "one" occasion taken a group of tourists to "one" of the major Washington tourist sites. ETI's president attests that ETI made every effort prior to receiving its certificate to comply with Commission rules and regulations and pledges ". . . our most complete effort to do so in the future."

By Order No. 3447, served January 3, 1990, ETI was conditionally granted certain charter and special operations authority contingent upon timely compliance with the terms of the order. On January 12, 1990, the day full compliance with Order No. 3447 was effected, WMATC Certificate No. 162 was issued to ETI. WMATC Certificate No. 162 authorizes the following transportation:

IRREGULAR ROUTES:

PART A

SPECIAL OPERATIONS transporting passengers, together with their baggage in the same vehicles as passengers,

- (1) in round-trip lectured sightseeing tours between points in the Metropolitan District, and
- (2) between airports, bus stations, and train stations located in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District, when provided in combination with PART A(1) above.

PART B

CHARTER OPERATIONS transporting passengers, together with their baggage in the same vehicles as passengers, between points in the Metropolitan District.

RESTRICTED IN BOTH PARTS A and B to transportation of passengers in vehicles having a manufacturer's designed seating capacity of 15 persons or less (including the driver) and further restricted in both PARTS A and B against transportation solely within the Commonwealth of Virginia.

ETI obtained WMATC Certificate No. 162 as the result of an application filed August 31, 1989, and amended September 1 and September 6, 1989. Notice of the application was given by Order No. 3405, served September 14, 1989, and protests were due October 10, 1989. A hearing on the matter was held October 19, 1989, and at the close of that hearing, the Administrative Law Judge directed that briefs be filed November 20, 1989. The date briefs were due, ACL-VA filed its complaint. The complaint was served, answered, and considered by the Commission (See Order No. 3444, served December 21, 1989), prior to the Commission's conditional grant of authority to ETI contained in Order No. 3447. ACL-VA filed the additional affidavits

discussed above after Order No. 3444 was issued but before compliance was completed. ETI completed compliance with Order No. 3447 on January 12, 1990, and the Commission issued ETI's certificate that same day. The time for filing a petition for reconsideration of Order No. 3444 expired January 20, 1990, with no person filing a petition. On January 26, 1990, ETI filed its response to ACL-VA's additional affidavits. Thus, Case No. AP-89-44, Application of Easy Travel, Inc., for a Certificate of Public Convenience and Necessity -- Charter and Special Operations, stands closed. However, Case No. FC-89-03, American Coach Lines, Inc., v. Easy Travel, Inc., remains unresolved.

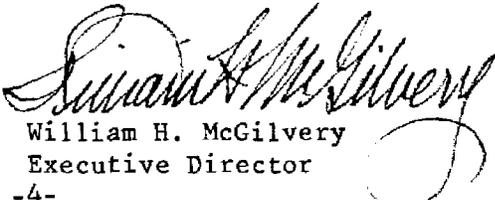
As the factual and procedural history recited above indicates, complainant has made certain allegations and, based on those allegations, has asked the Commission to order ETI to cease and desist from transporting passengers for hire between points in the Metropolitan District in the absence of authority from this Commission. Defendant has generally denied ACL-VA's allegations and has moved to dismiss the complaint on the grounds, inter alia, that the matter is moot. At the very least there remain facts in dispute in this matter. Those facts could be resolved at hearing. However, the Commission notes that, in light of the issuance of WMATC Certificate No. 162, it is possible to grant ACL-VA's prayer without resolving those facts and, thus, without further proceedings. Such action would conserve time and money for the parties and the Commission and would be in the interest of judicial economy. It is that course that the Commission will take.

In taking this action, the Commission notes that ETI's president's affidavit indicates possible involvement in actions unauthorized by the Compact on a single occasion. ETI is strongly admonished to refrain from any unauthorized actions in the future and to comply thoroughly with the letter and the spirit of the Compact and all Commission rules and regulations (including safety regulations) and Commission orders. The result in this case is intended to be rehabilitative, if rehabilitation is necessary, and not punitive and should not be interpreted as hesitancy to consider similar matters in the future.

THEREFORE, IT IS ORDERED:

1. That Easy Travel, Inc., is hereby ordered to cease and desist from transporting passengers for hire between points in the Metropolitan District except as specifically authorized by this Commission.
2. That the Motion to Dismiss of Easy Travel, Inc., is hereby denied.
3. That Case No. FC-89-03 is hereby terminated.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:

  
William H. McGilvery  
Executive Director