

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4009

IN THE MATTER OF:

Served October 14, 1992

Revocation of Authorization of)
GREYHOUND LINES, INC., to)
Self-Insure)

Case No. MP-90-12

On February 9, 1989, the Interstate Commerce Commission (ICC) conditionally granted the self-insurance application of Greyhound Lines, Inc. (GLI).¹ GLI filed a similar application with this Commission on May 9, 1989. That application was granted on October 4, 1989, subject to the same conditions imposed by the ICC.² Condition No. 2 required GLI to establish a letter of credit or trust fund for paying bodily injury and property damage (BI&PD) claims, and Condition No. 5 required GLI to maintain a tangible net worth of at least \$10 million.³

On June 27, 1990, partly in response to GLI having filed for federal bankruptcy protection on June 4, 1990, the ICC lowered GLI's self-insurance authorization from \$5 million to \$1.5 million, imposed new reporting requirements and modified certain of the original conditions, including Conditions 2 and 5.⁴ Condition No. 2 was modified to require the creation of a second trust fund which, unlike the first, would be used for paying only post-bankruptcy-petition BI&PD claims and be funded by GLI through quarterly payments of \$1.5 million until the balance reached \$15 million.⁵ The tangible net worth requirement under Condition No. 5 was waived until further ordered, provided that once the Bankruptcy Court approved a plan of reorganization, GLI would have 30 days to show cause why that waiver should not be revoked.⁶ On July 23, 1990, this Commission concurred with the ICC's June 27th decision and issued an order⁷ identical in effect.

¹ Greyhound Lines, Inc., and GLI Acquisition Co., 1989 Fed. Car. Cas. (CCH) ¶ 37,658 (Feb. 9, 1989) (served Feb. 16, 1989).

² In re Application of GREYHOUND LINES, INC., No. AP-89-26, Order No. 3418 (Oct. 4, 1989).

³ Id. at 2-4.

⁴ Greyhound Lines, Inc., 1990 Fed. Car. Cas. (CCH) ¶ 37,829 (June 27, 1990).

⁵ Id. at 47,220.

⁶ Id. at 47,220.

⁷ In re Revocation of Authorization of GREYHOUND LINES, INC., No. MP-90-12, Order No. 3529 (July 23, 1990).

In compliance with the ICC's show cause order, GLI notified the ICC by letter dated November 8, 1991, that a plan of reorganization had been approved.⁸ GLI also transmitted some financial statements.⁹ GLI provided the same information to this Commission by cover letter dated November 19, 1991, which stated that approval had been confirmed October 11, 1991.

On January 27, 1992, GLI formally petitioned the ICC for a temporary extension of the waiver until at least the end of March 1992, when the proceeds from a planned issuance of \$60 million in preferred stock were expected to convert a negative tangible net worth of \$38.3 million, measured as of October 31, 1991, into a positive tangible net worth of approximately \$18 million.¹⁰ That plan was abandoned in March 1992 in favor of a plan to issue \$90 million in debentures, which, unlike the issuance of stock, would not increase GLI's tangible net worth.¹¹

The ICC granted GLI's petition on March 30, 1992, continuing the waiver indefinitely and imposing two additional reporting requirements: the first requiring GLI to make a one time filing with respect to the debenture offering; the second requiring GLI to file with the ICC copies of GLI's Forms 10-K and 10-Q as filed with the SEC, beginning with those filed in 1992.¹² GLI voluntarily provided this Commission with the same information.

The ICC's March 30 order was not served until April 8, 1992.¹³ During the interim, on March 31, GLI filed a supplemental petition proposing that the waiver be extended until September 1993, when GLI projected it would be able to meet the \$10 million tangible net worth requirement again.¹⁴ GLI also proposed making quarterly deposits of \$1.5 million into the post-petition fund beyond the \$15 million ceiling, to \$19.5 million by September, 1993.¹⁵ After meeting the net worth requirement again, GLI would reduce the fund back to the original \$15 million level.¹⁶

⁸ Greyhound Lines, Inc., 1992 Fed. Car. Cas. (CCH) ¶ 37,968 at 47,609 (Mar. 30, 1992) (served Apr. 8, 1992).

⁹ Id. at 47,609-10.

¹⁰ Id. at 47,606, 47,610.

¹¹ Id. at 47,610.

¹² Id. at 47,611.

¹³ Greyhound Lines, Inc., No. MC-1515, Slip Op. at 1-2 (Sep. 14, 1992) (served Sep. 21, 1992).

¹⁴ Id. at 2.

¹⁵ Id. at 2.

¹⁶ Id. at 2.

The ICC granted GLI's supplemental petition on September 14, 1992, extending the waiver until September 1993 on the condition that GLI continue making quarterly deposits into the post-petition fund beyond the \$15 million ceiling and deferring until September 1993, provided that GLI has achieved a \$10 million tangible net worth by then, consideration of whether the fund should then be reduced back to the \$15 million level.¹⁷ The ICC justified its order on the following grounds:

GLI's self-insurance program currently affords the security for the protection of the public contemplated by 49 U.S.C. § 10927. The carrier has paid BI&PD liability claims from operating revenue, and its cash position has recently been improved by the availability of significant funds from a revolving line of credit agreement. GLI has deposited \$13.5 million, as of June 30, 1992, into the post-petition trust fund, and no funds have been withdrawn from this trust fund for payment of claims since its inception.

GLI's cash and liquidity position improved due to the April and May 1992 sale of \$98.9 million of 8.5 percent convertible subordinated debentures due in 2007. The proceeds from this public offering were used primarily to liquidate about \$76 million of long-term debt which resulted in the elimination of substantial principal amortization payments over the next 6 years, and a substantial increase in borrowing capability from a revolving credit loan.¹⁸

We concur in the reasoning and result of the ICC's September 14 order. The waiver of the net worth requirement shall be extended until September 1993. GLI shall continue making quarterly deposits into the post-petition trust fund until the waiver is revoked. If GLI has achieved a \$10 million tangible net worth by September 1993, the Commission will then consider reducing the post-petition fund back to the \$15 million level. In addition, GLI's heretofore voluntary filings of SEC documents shall be made mandatory.

THEREFORE, IT IS ORDERED:

1. That the waiver of the \$10 million tangible net worth requirement is extended through August 31, 1993.
2. That GLI shall continue making quarterly deposits of \$1.5 million into the post-bankruptcy-petition BI&PD trust fund until such time as the net worth requirement waiver is revoked by the Commission.

¹⁷ Id. at 2-3.

¹⁸ Id. at 2.

3. That GLI shall file with the Commission quarterly Form 10-Q and annual Form 10-K financial statements that are filed with the SEC, concurrently with their filing with the SEC.

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



William H. McGilvery
Executive Director