

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4425

IN THE MATTER OF:

Served November 4, 1994

Application for Approval of Asset )  
Purchase Agreement Between CAREY )  
LIMOUSINE D.C., INC., and ADV )  
INTERNATIONAL CORPORATION, Trading )  
as MORAN LIMOUSINE SERVICE )

Case No. AP-94-53

ADV INTERNATIONAL CORPORATION, )  
Trading as MORAN LIMOUSINE SERVICE, )  
Suspension and Investigation of )  
Revocation of Certificate No. 183 )

Case No. MP-94-37

By application accepted for filing October 28, 1994, Carey Limousine D.C., Inc. (Carey or transferee), Carrier No. 69, and ADV International Corporation, trading as Moran Limousine Service (Moran or transferor), Carrier No. 183 (collectively applicants), seek Commission approval of Carey's purchase of substantially all the assets of Moran, including Moran's certificate of authority.

The application includes information regarding, among other things, transferee's corporate status, carrier affiliations, facilities, proposed tariff, finances, and regulatory compliance record. Also included is a copy of the purchase agreement executed on June 30, 1994. The application is available for inspection at the office of the Commission during its regular business hours.

Carey proposes a general tariff containing hourly, mileage, and transfer rates for service in sedans, limousines, vans and minibuses. Carey also proposes a contract tariff for service to and from the Washington Harbour building pursuant to a contract acquired from Moran under the purchase agreement.

Under the purchase agreement, Moran continues to hold title to its vehicles, but five limousines and four minibuses are subject to lease by Carey from July 1, 1994, to November 30, 1994. In addition, appended to the purchase agreement are two "Independent Operator Agreements," whereby each independent party agrees to make available a vehicle (limousine) and driver to be used in Moran's "Chauffeur Driver Service," and now, by virtue of the purchase agreement, Carey's. The five limousines and two independent-operator vehicles are omitted from Carey's equipment list.

Carey will be directed to file a statement explaining why the five limousines leased from Moran and the two limousines leased from independent operators are omitted from Carey's equipment list notwithstanding that Carey's proposed tariff contains rates for limousine service. Carey also will be directed to file a statement explaining why the four minibus leases filed with the application do not reflect the November 30, 1994, termination date. Carey further will be directed to file a statement indicating whether it is

requesting waiver of Commission Regulation No. 62-08 with regard to the "Independent Operator Agreements," and whether it is requesting temporary approval to operate the Washington Harbour contract pending a decision on this application. Finally, Carey will be directed to file a certificate of good standing issued no earlier than October 28, 1993.

Moran will be directed to file a statement indicating its plans for operating or disposing of any vehicles not leased to Carey and its plans for operating or disposing of vehicles returned by Carey when the leases between Moran and Carey expire.

Under Article XI, Section 11(a), and Article XII, Section 3(a)(ii), of the Compact, the Commission may approve the transfer of assets from Moran to Carey, including Certificate of Authority No. 183, if the Commission finds said transfer to be in the public interest, which inter alia, requires a finding of transferee's fitness.<sup>1</sup>

Pursuant to Commission Rule No. 6, this order and fulfillment of its requirements will provide notice of the application.<sup>2</sup>

As the caption indicates, the application proceeding is being consolidated with an investigation proceeding concerning suspension and possible revocation of Certificate No. 183. Commission Regulation No. 20-02 provides for consolidation of proceedings which have a common question of fact or law. The common question here is whether Certificate No. 183 should be terminated, either for Moran's noncompliance with the Commission's insurance regulations<sup>3</sup> or as a result of transfer to Carey, which holds essentially identical

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<sup>1</sup> In re Eugene H. George, t/a Silver Star Sightseeing Tours, & Samuel J. Howell, No. AP-89-23, Order No. 3393 (Aug. 17 1989); In re Dawson's Charter Serv., Inc., & Beltway Limo. Serv., Inc., No. AP-81-21, Order No. 2304 (Jan. 6, 1982); In re Atwood's Transport Lines, Inc., & Gray Line, Inc., No. AP-78-30, Order No. 1912 (Nov. 6, 1978); see In re ATE Mgmt. & Serv. Co., Greyhound Lines, Inc., & Trailways Commuter Transit, Inc., No. AP-91-37, Order No. 3876 (Jan. 6, 1992) (transferee found fit).

<sup>2</sup> In re ATE Mgmt. & Serv. Co., Greyhound Lines, Inc., & Trailways Commuter Transit, Inc., No. AP-91-37, Order No. 3845 (Nov. 13, 1991); see In re Eugene H. George, t/a Silver Star Sightseeing Tours, & Samuel J. Howell, No. AP-89-23, Order No. 3365 (June 27, 1989) (applicant ordered to publish notice); In re Dawson's Charter Serv., Inc., & Beltway Limo. Serv., Inc., No. AP-81-21, Order No. 2256 (Sept. 28, 1981) (same); In re Atwood's Transport Lines, Inc., & Gray Line, Inc., No. AP-78-30, Order No. 1877 (Sept. 7, 1978) (same); In re Gray Line, Inc., & Washington Sightseeing Tours, Inc., No. 219, Order No. 1045 (June 5, 1970) (same).

<sup>3</sup> See In re ADV Int'l Corp., t/a Moran Limo. Serv., No. MP-94-37, Order No. 4406 (Oct. 18, 1994) (Moran ordered to file certificate of insurance or face revocation).

operating rights under Certificate No. 69.<sup>4</sup> Consolidation is particularly appropriate where the issue is outcome determinative,<sup>5</sup> or otherwise involves the propriety of transferring suspended operating rights.<sup>6</sup>

THEREFORE, IT IS ORDERED:

1. That the investigation of revocation of Certificate No. 183, Case No. MP-94-37, is hereby consolidated with the application to transfer Certificate No. 183, Case No. AP-94-53.
2. That applicants shall publish once in a newspaper of general circulation in the Metropolitan District, no later than November 15, 1994, notice in the form prescribed by the staff of the Commission.
3. That applicants shall file with the Commission, no later than December 6, 1994, an original and four copies of an affidavit that notice has been published as required in the preceding paragraph.
4. That transferor shall file with the Commission, no later than November 15, 1994, an original and four copies of a statement indicating its plans for operating or disposing of any vehicles not leased to transferee and its plans for operating or disposing of vehicles returned by transferee when the leases between transferor and transferee expire.
5. That transferee shall file with the Commission, no later than November 15, 1994, an original and four copies of the following:
  - a. A statement explaining why the five limousines leased from transferor and the two limousines leased from independent operators are omitted from transferee's equipment list notwithstanding that transferee's proposed tariff contains rates for limousine service.
  - b. A statement explaining why the four minibus leases filed with the application do not reflect the November 30, 1994, termination date.
  - c. A statement indicating whether transferee is requesting waiver of Commission Regulation No. 62-08 with regard to the "Independent Operator Agreements."

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<sup>4</sup> See Air Couriers Int'l Ground Transp. Servs., Inc., t/a Passenger Express, & United Mgmt. Corp., t/a Passenger Express, No. AP-92-12, Order No. 3956 (June 15, 1992) (duplicate transferred certificate terminated).

<sup>5</sup> In re Mustang Tours, Inc., No. AP-93-30, Order No. 4189 (Oct. 18, 1993).

<sup>6</sup> See Order No. 3365 (consolidating insurance investigation with transfer application).

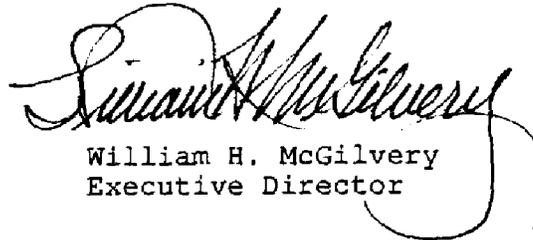
d. A statement indicating whether transferee is requesting temporary approval to operate the Washington Harbour contract pending a decision on this application.

e. A certificate of good standing issued no earlier than October 28, 1993.

6. That any person wanting to protest the application, in accordance with Commission Rule No. 13 and Regulation No. 54-04(a), and any person wanting to comment on the application, in accordance with Regulation No. 54-04(a), shall file such protest or comment at the office of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104, no later than December 6, 1994, and shall simultaneously serve a copy of such protest or comment on applicants' representative, Mr. Guy C. Thomas, Executive Vice President, Carey Limousine D.C., Inc., 768 South 23rd Street, Arlington, VA 22202.

7. That any person seeking a formal oral hearing on this matter, in accordance with Commission Regulation No. 54-04(b), shall request one no later than December 6, 1994, and shall simultaneously serve a copy of such request on applicants' representative, Mr. Guy C. Thomas, Executive Vice President, Carey Limousine D.C., Inc., 768 South 23rd Street, Arlington, VA 22202.

FOR THE COMMISSION:



William H. McGilvery  
Executive Director