

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6631

IN THE MATTER OF:

Served April 24, 2002

ACADEMY BUS TOURS, INC., WMATC )  
Carrier No. 456, Investigation of )  
Unauthorized Transfer of Operations )  
to ACADEMY EXPRESS, L.L.C. )

Case No. MP-2002-32

This investigation is being initiated to determine whether the operations of Academy Bus Tours, Inc., in the Washington Metropolitan Area Transit District have been unlawfully transferred to Academy Express, L.L.C.

Under the Washington Metropolitan Area Transit Regulation Compact, "a carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District."<sup>1</sup> "A person may not transfer a Certificate of Authority unless the Commission approves the transfer as consistent with the public interest."<sup>2</sup> "A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority."<sup>3</sup>

The Commission's annual report form requires each carrier to indicate whether "a merger, consolidation or other change in management, ownership, control, or form of organization occurred during the calendar year." The 2000 annual report of Academy Bus Tours as filed, states that there were no such changes for the carrier that year, but corrected portions of the report at one time indicated otherwise. The report originally declared that "Academy Bus Tours has been merged into Academy Express, LLC." Apparently, typing correction fluid was then applied to blot out the statement, but the original entry can still be seen.

Federal Motor Carrier Safety Administration (FMCSA) records<sup>4</sup> indicate that Academy Express is active and that Academy Bus Tours is inactive.<sup>5</sup> FMCSA records list the same insurance policies for both Academy Express and Academy Bus Tours. The address on file with FMCSA for Academy Express is the same as that on file with this Commission for Academy Bus Tours.

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<sup>1</sup> Compact, tit. II, art. XII, § 3(a)(i).

<sup>2</sup> Compact, tit. II, art. XI, § 11(a).

<sup>3</sup> Compact, tit. II, art. XI, § 11(b).

<sup>4</sup> See <http://fhwa-li.volpe.dot.gov>.

<sup>5</sup> According to FMCSA records, Academy Express obtained its federal authority, USDOT No. 905572, on October 22, 2001, lost it on November 28, 2001, and regained it on December 11, 2001. Academy Bus Tours lost its federal authority, USDOT No. 151334, on January 22, 2002.

All of these circumstances together suggest the need for an investigation. The failure of Academy Bus Tours to file an annual report for 2001 and pay its annual fee for 2002 makes that need more certain.

The Commission may investigate whether a person has violated the Compact and for the purpose of an investigation "may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry."<sup>6</sup>

The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes. This [applies] to any person controlling, controlled by, or under common control with a carrier subject to this Act, whether or not that person otherwise is subject to this Act. A carrier that has its principal office outside of the Metropolitan District and operates both inside and outside of the Metropolitan District may keep all accounts, records, and memoranda at its principal office, but the carrier shall produce those materials before the Commission when directed by the Commission.<sup>7</sup>

Respondents will have thirty days to produce any and all records in their possession, custody or control relating to their operations in the Metropolitan District. Additionally, Academy Bus Tours, Inc., will have thirty days to file an annual report for 2001 and pay its annual fee for 2002.

THEREFORE, IT IS ORDERED:

1. That an investigation is hereby initiated under Article XIII, Section 1, and Article XII, Section 1, of the Washington Metropolitan Area Transit Regulation Compact.

2. That Academy Bus Tours, Inc., and Academy Express, L.L.C., are named parties to this proceeding.

3. That Academy Express, L.L.C., is hereby directed to refrain from, and/or cease and desist from, transporting passengers for hire between points in the Washington Metropolitan Area Transit District unless and until otherwise ordered by the Commission.

4. That respondents are hereby directed to produce, within thirty days from the date of this order, any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within respondents' individual or joint possession, custody or control and which relate to the transportation of passengers for hire between

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<sup>6</sup> Compact, tit. II, art. XIII, § 1(c), (e).

<sup>7</sup> Compact, tit. II, art. XII, § 1(b)-(d).

points in the Washington Metropolitan Area Transit District during the period beginning January 1, 2001, and ending on the date of this order, including, but not limited to:

- a. any and all customer invoices;
- b. any and all invoices from other carriers;
- c. any and all bank records; and
- d. any and all tax returns;

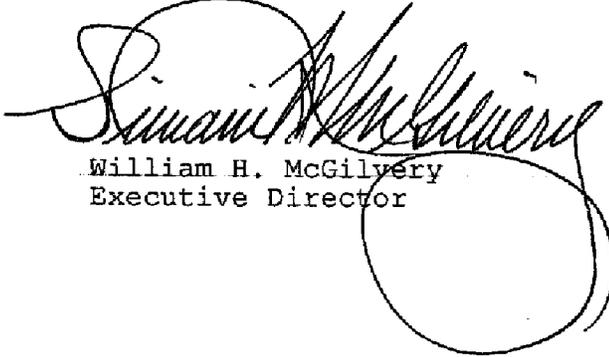
5. That Academy Bus Tours, Inc., shall within thirty days from the date of this order file one or more certificates from its state of incorporation describing the corporate status of Academy Bus Tours, Inc., throughout the period beginning January 1, 2001, and ending on the date of this order.

6. That Academy Bus Tours, Inc., shall within thirty days from the date of this order file an annual report for 2001 and pay its annual fee for 2002.

7. That Certificate of Authority No. 456 shall be automatically suspended upon either respondent's failure to timely respond to this order.

8. That in the event Certificate of Authority No. 456 is suspended pursuant to the preceding paragraph, Academy Bus Tours, Inc., shall have thirty days thereafter to show cause why Certificate of Authority No. 456 should not be revoked for failure to comply with the requirements of this order.

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



William H. McGilvery  
Executive Director

