

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6757

IN THE MATTER OF:

Served August 5, 2002

ACADEMY BUS TOURS, INC., )  
Revocation of Certificate of )  
Insurance and Investigation of )  
Suspension and Revocation of )  
Certificate No. 456 )

Case No. MP-2002-23

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 matter is before the Commission to determine whether Certificate of Authority No. 456 shall be revoked for the willful failure of Academy Bus Tours, Inc., to comply with the Compact and regulations thereunder. These cases are being consolidated pursuant to Commission Rule No. 20-02 for resolution of this common issue.

**I. CASE NO. MP-2002-23**

Article XI, Section 7(f), of the Compact directs each person holding a certificate of authority to comply with the Commission's insurance regulations. Commission Regulation No. 58 requires the holder of an unrestricted certificate of authority, such as Certificate No. 456, to maintain \$5 million of commercial motor vehicle liability insurance and file proof of such insurance with the Commission using the Commission's form.

Academy Bus Tours, Inc., filed four WMATC insurance certificates last November and December totaling \$5 million. Similar insurance certificates were filed with the Federal Motor Carrier Safety Administration (FMCSA).<sup>1</sup> The primary certificate filed with this Commission shows full coverage for the first \$500,000 in claims. The primary certificate filed with the FMCSA shows liability coverage of \$400,000 commencing after the first \$100,000 in claims. Both certificates reference the same underlying insurance policy and therefore cannot both be correct.

In light of this discrepancy, we issued Order No. 6587 in Case No. MP-2002-23, revoking the primary insurance certificate of Academy Bus Tours, Inc., effective April 25, 2002.<sup>2</sup> The order gave Academy Bus Tours, Inc., until then to file a replacement certificate showing full coverage for the first \$500,000 in claims.

<sup>1</sup> See [www.safersys.org](http://www.safersys.org).

<sup>2</sup> In re Academy Bus Tours, Inc., No. MP-02-23, Order No. 6587 (Mar. 26, 2002).

On June 18, 2002, the Commission received an insurance certificate in the name of Academy Bus Tours, Inc., showing full coverage for the first \$500,000 in claims. In the meantime, however, in connection with the Commission's investigation in MP-2002-32, respondents informed the Commission that Academy Bus Tours, Inc., transferred all of its assets to Academy Express, L.L.C., and no longer exists. This means that all of the insurance certificates on file with the Commission in the name of Academy Bus Tours, Inc., are now invalid. This violates the requirement in Commission Regulation No. 58-02 that each WMATC carrier maintain an effective certificate of insurance on file with the Commission at all times.

## II. CASE NO. MP-2002-32

While the insurance investigation was pending in Case No. MP-2002-23, the Commission initiated an investigation in Case No. MP-2002-32 into whether the operations of Academy Bus Tours, Inc., in the Washington Metropolitan Area Transit District had been unlawfully transferred to Academy Express, L.L.C.<sup>3</sup> Respondents were directed to produce any and all records in their possession, custody or control relating to their operations in the Metropolitan District and to the corporate status of Academy Bus Tours, Inc.<sup>4</sup> A response filed May 13, 2002, admits that Academy Bus Tours, Inc., transferred all of its assets to Academy Express, L.L.C., in a transaction approved by the Surface Transportation Board (Board), effective October 1, 2001. The response states that Academy Bus Tours, Inc., no longer exists but that Academy Express, L.L.C., has not performed any transportation originating in the Metropolitan District.

The response goes on to argue that approval of the transfer under the Washington Metropolitan Area Transit Regulation Compact is unnecessary given what respondents view as the Board's exclusive jurisdiction over interstate motor carrier mergers and the Board's ancillary jurisdiction to approve transfers of intrastate authority and property. The response cites 49 U.S.C. § 14303(f) and precedent involving decisions of the Board's predecessor, the Interstate Commerce Commission (ICC), in support. We disagree with respondents' position.

When Congress first approved the Compact in 1960, it suspended the laws of the United States relating to or affecting transportation under the Compact, to the extent that such laws are inconsistent with or in duplication of the provisions of the Compact, for as long as the Compact remains effective.<sup>5</sup> The legislative history of the Compact identifies Title 49 as one of the suspended laws.<sup>6</sup> In the words of the

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<sup>3</sup> In re Academy Bus Tours, Inc., & Academy Express, L.L.C., No. MP-02-32, Order No. 6631 (Apr. 24, 2002).

<sup>4</sup> The order also directed Academy Bus Tours, Inc., to file an annual report for 2001 and pay its annual fee for 2002. The report and fee were submitted on May 8, 2002.

<sup>5</sup> Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960).

<sup>6</sup> WASH. METRO. AREA TRANSIT REG. COMPACT, H.R. REP. NO. 1621, 86th Cong., 2d Sess. 29 (1960); WASH. METRO. AREA TRANSIT REG. COMPACT, S. REP. NO. 1906, 86th Cong., 2d Sess. 55-56 (1960).

ICC, "the effect of the Compact is to remove from our jurisdiction local bus operations in the vicinity of Washington, and to vest that jurisdiction instead in a local regulatory body (WMATC)."

Congress's approval of the amended Compact in 1990 reaffirmed the suspension of federal legislation in the Metropolitan District to the extent such laws conflict with the Compact.<sup>7</sup> Article XIV, Section 2(c), of the Compact provides that "during the existence of the Compact, the jurisdiction of the Interstate Commerce Commission is suspended to the extent it is in conflict with the provisions of this Act." Article VIII, Section 3, of the Compact provides that "[u]pon the termination of this Compact, the jurisdiction over the matters and persons covered by this Act shall revert to the signatories and the federal government, as their interests may appear, and the applicable laws of the signatories and the federal government shall be reactivated without further legislation."

The two cases cited by respondents examine the Interstate Commerce Act's preemption of state statutes in Illinois and Minnesota.<sup>8</sup> They do not consider Congress's suspension of the Interstate Commerce Act in the Washington Metropolitan Area Transit District.

### III. CONCLUSION

In consideration of the foregoing, pursuant to Article XI, Section 10(c), of the Compact, we shall revoke Certificate No. 456 for the willful failure of Academy Bus Tours, Inc., to comply with the Commission's insurance regulation, Regulation No. 58, as required by Article XI, Section 7(f), of the Compact, and for the willful failure of Academy Bus Tours, Inc., to comply with the transfer provisions of the Compact, Article XI, Section 11(a), and Article XII, Section 3.

THEREFORE, IT IS ORDERED:

1. That Case No. MP-2002-23 and Case No. MP-2002-32 are hereby consolidated.
2. That Certificate of Authority No. 456 is hereby revoked.
3. That within 30 days from the date of this order respondents shall:
  - a. remove from respondents' vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
  - b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and

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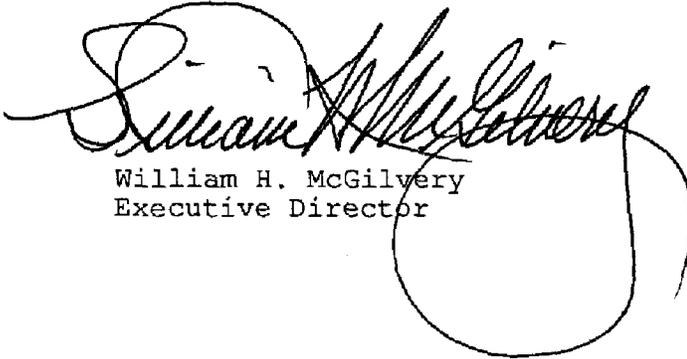
<sup>7</sup> American Coach Lines, Inc., 1988 Fed. Car. Cas. (CCH) ¶ 37,547 (Sept. 8, 1988).

<sup>8</sup> Washington Metropolitan Area Transit Regulation Compact, Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990).

<sup>9</sup> See Leaseway Transp. Corp. v. Bushnell, 888 F.2d 1212 (7<sup>th</sup> Cir. 1989) (Illinois); Herman Bros., Inc. -- Purchase Exemption -- Thompson Truck Line, 7 I.C.C.2d 382 (May 22, 1991) (Minnesota).

c. surrender Certificate No. 456 to the Commission.

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

A large, stylized handwritten signature in black ink, which appears to read "William H. McGilvery". The signature is written in a cursive style with a large, sweeping loop at the end.

William H. McGilvery  
Executive Director