

questions concerning this proposed action and the EIS should be directed to the DOTD at the address above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 27, 2003.

**Jose Bloise,**

*Assistant Division Administrator, FHWA.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. MC-F-20997]**

#### **Coach USA, Inc., et al.—Purchase and Sale of Assets—Academy Bus, LLC, et al.**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice tentatively approving finance transaction.

**SUMMARY:** Coach USA, Inc. (Coach), a noncarrier, and Suburban Transit Corp. (Suburban) and Red & Tan Tours, Inc. (RTT), two motor passenger carriers, filed an application under 49 U.S.C. 14303 jointly with Academy Bus, LLC (Academy Bus), a noncarrier, and Academy Express, LLC (Academy Express) and Academy Lines, LLC (Academy Lines),<sup>1</sup> two motor passenger carriers, to acquire from each other certain operating rights in New York and New Jersey, and other assets.

Persons wishing to oppose the application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

**DATES:** Comments must be filed by April 21, 2003. Applicant may file a reply by May 5, 2003. If no comments are filed by April 21, 2003, this notice is effective on that date.

**ADDRESSES:** Send an original and 10 copies of any comments referring to STB

<sup>1</sup> On January 27, 2003, New Jersey Transit Bus Operations, Inc., and Academy Lines, jointly filed an application for approval of a pooling agreement with respect to Route 9 Corridor service from points in New Jersey to New York City, NY. In *New Jersey Transit Bus Operations, Inc.—Pooling—Academy Lines, L.L.C.*, STB Docket No. MC-F-20994 (STB served Feb. 12, 2003), the Board, under 49 U.S.C. 13541, authorized an exemption from the requirements of 49 U.S.C. 14302 to permit applicants to conduct interim pooling operations pending Board action on the pooling application.

Docket No. MC-F-20997 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, send one copy of comments to applicants' representative: David H. Coburn, Steptoe & Johnson, LLP, 1330 Connecticut Avenue, NW., Washington, DC 20036.

#### **FOR FURTHER INFORMATION CONTACT:**

Beryl Gordon, (202) 565-1600. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:** Coach, a Delaware corporation, currently controls numerous motor passenger carriers,<sup>2</sup> including Suburban and RTT,<sup>3</sup> both of which are based in New Jersey and operate in the New Jersey/New York area. Academy Bus, a noncarrier, currently controls certain motor passenger carriers,<sup>4</sup> including Academy Express and Academy Lines; both of these carriers are based in New Jersey with operations in that state and New York.<sup>5</sup> In this transaction, these carriers will exchange certain routes and other assets with one another.

Specifically, under an Asset Purchase and Exchange Agreement (Agreement), Academy Express and related entities have agreed to transfer to Coach or to an affiliate of Coach to be designated by it, certain bus routes between points in New York City and Westchester County, NY, on the one hand, and Atlantic City, NJ, on the other, as well as certain assets including relevant agent lists, customer lists, sales records, accounting records, and the trade name "Funaway Tours" in which this bus service is provided.

Further, Suburban has agreed to transfer to Academy Lines certain commuter routes along the Route 9 Corridor in New Jersey to and from New York City, and to Academy Express certain routes between points in Northern New Jersey, on the one hand, and Atlantic City, on the other. In addition, RTT has agreed to transfer to Academy Express certain routes between points in Staten Island and northern New Jersey, on the one hand, and Atlantic City, on the other. The

<sup>2</sup> Coach is wholly owned by Stagecoach Group plc, a noncarrier which indirectly controls the carriers controlled by Coach.

<sup>3</sup> Suburban and RTT hold federally issued operating authority in Docket Nos. MC-115116 and MC-162174, respectively, and New Jersey intrastate authority.

<sup>4</sup> Academy Bus and its motor carrier affiliates are indirectly controlled by Tedesco Family ESB Trust. See *Tedesco Family ESB Trust—Continuance in Control and Acquisition of Properties—Academy Bus, L.L.C., et al.*, STB Docket No. MC-F-20983 (STB served Aug. 2, 2001).

<sup>5</sup> Academy Express and Academy Lines hold federally issued operating authority in Docket Nos. MC-228481 and MC-414016, respectively, and New Jersey intrastate authority.

Agreement also provides that each of these transfers will also embrace the transfer of relevant agent lists, customer lists, as well as certain records and other instruments related to the operation of the specific routes.

Finally, the Agreement provides that the carriers will not engage in the operation of scheduled bus service on each other's transferred routes during a 5-year period.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Applicants submit that they have suffered economically following the events of September 11, 2001. They maintain that these route and related asset exchanges will allow them to improve the efficiency of their operations and reduce costs because the routes they will attain will blend efficiently into other operations that they conduct. They also claim that passengers on the various routes being exchanged will retain substantial intermodal and intramodal competitive alternatives, and therefore that the transaction will not adversely impact the adequacy of service to the public. Applicants also state that the proposed transaction will not adversely affect the employees of the carriers and will not increase fixed charges. See 49 CFR 1182.2(a)(7).

On the basis of the application, we find that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. The proposed purchase and sale of assets is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on April 21, 2003, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: February 27, 2003.

By the Board, Chairman Nober, Vice Chairman Burkes, and Commissioner Morgan.

**Vernon A. Williams,**  
*Secretary.*

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Dated: March 3, 2003.

**Richard S. Carro,**

*Senior Advisor to the General Counsel  
(Regulatory Affairs).*

**Treasury Department Order No. 165-09**

Maintenance of delegation in respect to general authority over Customs revenue functions vested in the Secretary of the Treasury, as set forth and defined in the Homeland Security Act of 2002.

Treasury Department, Washington, DC,  
February 28, 2003

Whereas the Homeland Security Act of 2002 (Pub. L. 107-296) (the "Act") was enacted into law on November 25, 2002;

Whereas the Act transfers the United States Customs Service from the Treasury Department to a new Department of Homeland Security, and, under the President's Reorganization Plan submitted to the Congress, this becomes effective March 1, 2003;

Whereas the Act requires that legal authority over the Customs revenue functions vested in the Secretary of the Treasury shall be retained, but may be delegated to the Secretary of Homeland Security in whole or in part;

Whereas the Treasury Department is studying the proper allocation of these authorities and consulting with the Administration and Congress in that regard;

Whereas the pre-existing Treasury Order 165, as amended ("Treasury Order 165"), has provided the Commissioner of Customs a delegation of authority from the Secretary of the Treasury for Customs functions;

Whereas the United States Customs Service relies on delegated authority for important aspects of its functions and operations;

Now therefore, in order to preserve the ability of the Department of Homeland Security to continue to perform the functions of the Customs Service and to provide adequate time for a considered decision on any new delegation, I hereby order that, with respect to authority over Customs revenue functions, Treasury Order 165 remains in effect except that the authority previously delegated to the Commissioner of Customs as an official of the Department of Treasury is now delegated to the Secretary of Homeland Security. Treasury shall retain the same authority delineated in Treasury Order 165 that it possessed prior to the transfer of the Customs Service to the Department of Homeland Security. Consistent with past interpretation and practice, I note that the use of the term "transferred" with respect to certain authority delegated in Treasury Order 165 shall continue to be understood to effect only a delegation.

John W. Snow,  
*Secretary of the Treasury.*

**DEPARTMENT OF THE TREASURY**

**Departmental Offices; Delegation of Authority to the Secretary of Homeland Security**

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Notice.

**DATES:** Treasury Department Order 165-09 became effective on February 28, 2003.

**SUMMARY:** On February 28, 2003, the Secretary of the Treasury issued Treasury Department Order 165-09 to preserve the ability of the Department of Homeland Security to continue to perform the functions of the United States Customs Service pending consideration of a delegation of authority concerning the Customs revenue function retained by the Secretary of the Treasury pursuant to the Homeland Security Act of 2002. Under the Order, the Department of the Treasury retains the same authority over the Customs revenue functions it possessed prior to the transfer of the United States Customs Service to the Department of Homeland Security.

**SUPPLEMENTARY INFORMATION:** The text of Treasury Department Order 165-09 follows.

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**Proposed Collection; Comment Request for Forms 8288 and 8288-A**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests, and Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests.

**DATES:** Written comments should be received on or before May 5, 2003 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622-3945, or through the internet ([CAROL.A.SAVAGE@irs.gov](mailto:CAROL.A.SAVAGE@irs.gov)), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

**Title:** U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests (Form 8288) and Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests (Form 8288-A).

**OMB Number:** 1545-0902.

**Form Number:** 8288 and 8288-A.

**Abstract:** Internal Revenue Code section 1445 requires transferees to withhold tax on the amount realized from sales or other dispositions by foreign persons of U.S. real property interests. Form 8288 is used to report and transmit the amount withheld to the IRS. Form 8288-A is used by the IRS to validate the withholding, and a copy is returned to the transferor for his or her use in filing a tax return.

**Current Actions:** There are no changes being made to the forms at this time.

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