

Onel Alfaro  
901 Wyckoff Avenue, Apt. 2L  
Ridgewood, New York 11385

April 30, 2011

Chief,  
Section of Administration  
Surface Transportation Board  
Washington, DC 20423-0001

Re: STB Docket No. MC-F-21035  
StageCoach Group PLC and Coach USA, Inc., et. al.  
Acquisition of Control - Twin America, LLC

Dear Sir/Madam:

Enclosed are my comments submitted in the above referenced matter.

Should the STB need to contact me please do so by email at [alfaroleno@aol.com](mailto:alfaroleno@aol.com), or by phone at 347-277-5497.

Sincerely,

  
Onel Alfaro

OA/encl.



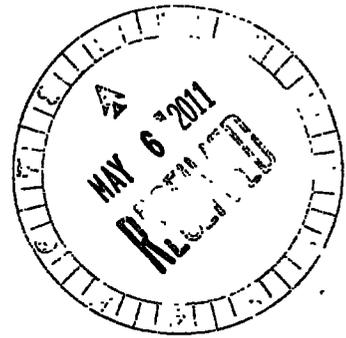
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MAY - 6 2011

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Public Record

Onel Alfaro  
901 Wyckoff Avenue, Apt. 2L  
Ridgewood, New York 11385



April 28, 2011

The Honorable Daniel R. Elliot III  
Chairman  
Surface Transportation Board  
395 E. Street, SW  
Suite 1220  
Washington, DC 20423-0001

229464

ENTRUSTED  
Office of Proceedings

MAY - 6 2011

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Re: STB Docket No. MC-F-21035  
StageCoach Group PLC and Coach USA, Inc., et. al.  
Acquisition of Control - Twin America, LLC

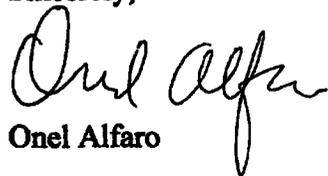
Dear Chairman Elliot:

Enclosed are my comments submitted in the above referenced matter. I submit my comments in support of the STB's decision of February 8, 2011 wherein the Board denied the transaction proposed by the Applicants as it was not in the public interest. I further urge the Board to deny the Applicant's petition for reconsideration.

Thank you for your consideration of my position.

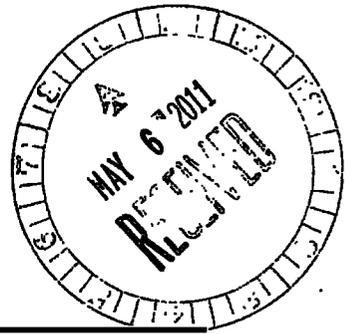
Should the STB need to contact me please do so by email at *alfaroleno@aol.com*, or by phone at 347-277-5497.

Sincerely,

  
Onel Alfaro

OA/encl.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



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**"STB" DOCKET NO. MC-F-21035**

229464

**STAGECOACH GROUP PLC AND COACH USA, INC., et al.**

**-ACQUISITION OF CONTROL-TWIN AMERICA, LLC**

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**COMMENT OF ONEL ALFARO**

ENTERED  
Office of Proceedings  
MAY - 6 2011  
Part of  
Public Record

Submitted By: Onel Alfaro  
901 Wyckoff Avenue  
Ridgewood, New York 11385

**The undersigned, Onel Alfaro, respectfully requests that the Surface Transportation Board (hereinafter the “STB”) deny the applicants’ petition for reconsideration and further requests that the “STB” fashion a remedy that ensures the survival of CitySights LLC., as a viable competitive entity in the double-decker tour bus market.**

**I state as follows:**

- 1. I was a tour guide at CitySights LLC. (hereinafter “CitySights”) a subsidiary of Twin America LLC. (hereinafter “Twin America”) which is an applicant in the matter presently before the “STB”.**
- 2. I was employed at CitySights since at least, March 2009 as a tour guide on their double-decker tour buses. Throughout that time, I have witnessed the many changes that have taken place since the supposed “joint venture” creating Twin America in March of 2009.**
- 3. Sometime after March 17, 2009, the employees at CitySights received a notice from senior management announcing a “joint venture” to be called Twin America. A copy of the notice is annexed hereto as Exhibit “A”.**
- 4. Subsequently, on April 6, 2009, Twin America issued a statement to all employees announcing the joint venture to be between Gray Line and CitySights. A copy of this statement is annexed hereto as Exhibit “B”.**
- 5. The new entity was destined to have “excessive market power” as it had 129 double-decker tour buses; receiving 70 tour buses from CitySights and 59 buses from Gray Line. In contrast, its only competitor The Big Apple Taxi, only had 4 buses.**

6. After the announcement of the new entity, I waited too see the response of the two unions representing the tour guides at both CitySights and Gray Line, but there was no response at that time. Though eventually the Gray Line union did submit comments to this Board after commencement of the present proceedings.
7. When I realized that the unions would not respond to the challenges presented to the tour guides by the proposed joint venture, I decided to do something about it, myself.
8. On June 12, 2009, I wrote a letter to the U.S. Department of Justice with a copy to the New York State Attorney General (hereinafter the "NYSAG"). I annexed a copy of this letter hereto as Exhibit "C".
9. In my letter, I complained about the excessive market power that the joint venture would have. Not only did I complain about the monopolistic consequences to consumers but also about its negative effects on the employees of the new entity.
10. On July 2, 2009, I received a letter from the U.S. Department of Justice acknowledging receipt of my complaint. A copy of this letter is annexed hereto as Exhibit "D".
11. Also, sometime after July 2, 2009, I received a phone call from two attorneys working at the "NYSAG" who were responding to my letter. I spoke to them at length and was told that they would be looking into the matter and would possibly be issuing subpoenas to Twin America in the near future. My impression, at that moment, was that my letter was the first notice they had about the creation of Twin America and its possible anticompetitive effects on the marketplace.

12. I verily believe that it was my complaint letter of June 12, 2009 that began a sequence of events that culminated in this Board's decision of February 8, 2011 as Twin America sought to shield itself from the jurisdiction and scrutiny of the "NYSAG" by applying to the "STB".
13. The New York City double-decker tour bus market is much differentiated as there is no real substitute for it. What makes it so unique and not easily replaceable or substituted for, is that it functions as an alternative public transportation system for many of our visitors and tourists. A significant number of Twin America's customers are not only using the double-decker buses as tour buses but use them because they are unwilling or unable to use our local system of public transportation. They are not looking for a tour of New York City but are simply looking to get around town. They find our public transportation system overwhelming, complex and even intimidating. They prefer using the slower and inconvenient double-decker tour buses that make stops at most of the popular tourist destinations. There is no substitute product for this segment of Twin America's target market.
14. Since the merger, Twin America has acted in a monopolistic manner fully exploiting its "excessive market power". The effects of its behavior in the market have been felt by both the consumers-riders of Twin America buses and the employees of the entity.
15. The "STB" has already found that consumers have been affected by post "joint venture" price increases of between 10% and 17%. See, page 10 of the Board's

decision dated February 8, 2011. I initially pointed this out in my letter of June 12, 2009 wherein I state:

**“Until recently Gray Line always charged about 10% more for their tour package than CitySights did for their basic package. CitySights established itself and built market share by charging less than Gray Line. Immediately after the announcement of the joint venture CitySights raised its prices to the same level as charged by Gray Line.”.**

**16. But consumers have been negatively impacted in other ways that were anticipated at page 5 of the Comments submitted by the “NYSAG”, wherein it states as follows:**

**“Hence, the applicant’s anticipated costs savings in the double-decker market come from .....reducing the number of buses or frequency of tours. Eliminating buses or tours could decrease the adequacy of the service since it would increase waiting time and/or lower the number of stops available within a route. “.**

**The above is exactly what has happened as Twin America has substantially decreased the number of CitySights buses, thus reducing service to their customers. I, and most of my fellow tour guide colleagues, can attest to it.**

**17. This has not only created inconveniences for the riding customers but has also created unsafe operating conditions on the buses as the drivers are pressured to speed through the tours to make up for the reduced number of CitySights buses in operation. The unsafe operation of the buses should be of concern to this Board as lately there have been a recent series of fatal tour bus accidents in the New York City area.**

**18. Complaints about the situation from the CitySights tour guides are ignored by the company. The main goal is to keep the buses running regardless of safety issues.**

19. In addition, there has been a noticeable lack of emphasis on the quality of the service provided to the consumer. The company no longer cares about the quality of service as it no longer has to compete with its former competitor, Gray Line.
20. Since the announcement of the “joint venture”, CitySights has cut back on the tours by reducing the length and duration of the available tours. It can do so because it no longer has to compete with Gray Line. But as it has tried to do more with less buses, it has created unsafe conditions on those buses.
21. Ownership’s attitude is: “We don’t care, we already have their money”.
22. The owners of CitySights know that it can get away with this because most of its customers are transient and non-local customers who cannot or will not pursue consumer complaints that need to be locally addressed through the New York City Department of Consumers Affairs.
23. Twin America not only exploits its market power over the consumers who buy its services but also exercises “excessive market power” over the people and entities from whom it buys goods or services; e.g., the tour guides who sell their services to it.
24. Twin America has monopsony market power over the tour guides as it is the only buyer for their services in the very specific market of the double-decker tour buses.
25. If the typical CitySights tour guide is dissatisfied with his/her wages, benefits and/or work conditions at CitySights then he/she is out of luck. There is no other employer in this specific marketplace. CitySights tour guides can no longer seek alternative employment opportunities at Gray Line.

**26. Since the merger, I know of no CitySights tour guide that has found employment at Gray Line and no Gray Line tour guide that has found employment at CitySights.**

**27. Twin America has exploited its market power as to the CitySights tour guides by acting in a manner that has effectively reduced the take home pay of its most senior and highly paid tour guides. Twin America has done this by reducing the tours, and thus the work hours, assigned to the senior tour guides and giving the work to lesser paid tour guides. Twin America can get away with this behavior because it is the “only game in town”. Again, this conduct was anticipated by the “NYSAG” in the Comments submitted by it, wherein at page 5 we find the following:**

**“Hence, the applicants’ anticipated cost savings in the double-decker market comes from the .....firing of Twin America’s employees and/or reducing the hours or wages of Twin America’s employees.....”.**

**28. Additionally, work conditions for all tour guides have been significantly diminished. CitySights has not shied away from exercising its market power over its employees by (i). reducing hours and take home pay; (ii). providing no paid lunch periods; (iii). providing no adequate bathroom facilities (e. g., one bathroom for over four hundred CitySights employees), (iv). providing no facilities where employees can change clothes; (v). being made to work on unsafe buses; (vi). subjecting the tour guides to arbitrary disciplinary measures; (vii). subjecting the tour guides to arbitrary terminations or reductions in seniority; and, (viii).**

generally, subjecting its employees to the arbitrary and capricious demands of ownership.

29. The applicants herein have requested that the “STB” reconsider its remedy. I further request that the “STB” particularize its order by requiring that Twin America maintain CitySights as a viable competitor in the double-decker tour bus market or sell it to a well capitalized third party that will keep it competitive in the double-decker tour bus market. This will further real competition in the double-decker market in New York City

30. At page 18 of the “STB” decision dated February 8, 2011, the Board states the following:

**“Compliance: Accordingly, we must now discuss the steps that Twin America must take given our denial of approval of the joint venture.**

**There are at least 2 options that Applicants may pursue at this juncture. First, they may take the necessary steps to expeditiously unwind the joint venture and completely separate the businesses, management, and assets of Gray Line and City Sights.....a quick and thorough dissolution of the joint venture should restore the competitive balance in this market to pre-joint venture levels over time.”.**

31. I am concerned that Twin America may try to comply with the “STB”’s decision and order by operating CitySights in a significantly reduced capacity and eventually liquidating CitySights.

32. How does one unwind a joint venture if one of the component entities is liquidated? In this case, Twin America will simply transfer the few valuable CitySights assets to Gray Line and will continue to operate an entity with “excessive market power”. And in the process, it will have solved its problem with the “STB”.

33. In support of this assertion, please examine the verified statement of Mr. Zev Marmustein, the CEO of Twin America, submitted to the “STB” and dated February 18, 2011, wherein from paragraphs 3 through 11 he asserts that he has systematically increased the scope of operations at Gray Line while at the same time reducing operations at CitySights. The process of downscaling CitySights may have already begun.
34. Other than the network of ticket agents, CitySights has no real value. The antiquated buses are run-down and are probably fully depreciated with no real surplus value. The company has fully recouped its investment in these buses and is now simply “milking” them. The buses are poorly maintained and many are unsafe. The company has not made any repairs to these buses since the announcement of the “joint venture”.
35. The company has little goodwill value. Just read the travel blogs like TripAdvisor.com and one can see that, online, there is little goodwill value attached to the CitySights brand. Most of the New York City hotel concierges send their guests to Gray Line and not to CitySights. The Gray Line brand has real value as it operates in many cities and has been around since the 1930’s.
36. After CitySights’ liquidation, ownership may re-hire a few of the terminated CitySights tour guides and drivers. But there is no assurance of that.
37. They will keep the ticket agents because their marginal cost to Twin America is minimal as they work on commissions and have no job-related benefits. They will simply convert the CitySights agents to Gray Line agents. Twin America, d/b/a Gray Line, would then have an army of ticket agents throughout Manhattan

**saturating the market and creating entry-barriers for possible competitors. The ticket agents are the most exploited of the Twin America employees, both at the Gray Line division and at the CitySights division, as most of the ticket agents are recent arrivals from various West African countries and ownership fully exploits their vulnerable situation.**

- 38. Upon CitySights liquidation, Twin America, now simply operating as Gray Line, (and, facing no real competition) will raise its prices once again. And it will be more profitable than it is now.**
- 39. Economics students learn that when a company has obtained “excessive market power” it can frequently become more profitable by reducing production. In Twin America’s case they run less buses and those happen to be CitySights buses.**
- 40. Though Twin America, itself, may become more profitable it will do so at a less than a socially optimal level of production.**
- 41. A “...quick and thorough dissolution of the joint venture” is not likely. Twin America with its’ high priced attorneys will play out the legal processes both at the “STB” and in the federal court system. And, in the end when this agency’s decision is upheld, Twin America will simply liquidate CitySights.**
- 42. But, in the interim, Twin America will consolidate its monopoly-like power in the double-decker market.**
- 43. Significantly, Twin America’s ownership runs extensive non-tour bus operations which allow it to cross-subsidize the double-decker operations and create entry barriers for any other potential double-decker operator seeking to compete in its market.**

44. Another possibility is that Twin America will sell CitySights to an entity controlled by the current ownership, which in the case of CitySights is the Marmustein family. They will sell the shell of what is left of CitySights to friendly associates who will not operate it competitively before eventually liquidating it.
45. The “STB” should fashion a remedy that secures a competitive double-decker tour bus market. And, the only way to achieve this is by requiring that Twin America not only separate the former CitySights and Gray Line operations but that it insures that CitySights remains a viable competitor in the New York City double-decker tour bus market.
46. The economic stakes in this controversy are significant as the tourism industry in New York City is not only a large sector but is an export sector of the city’s economy that in 2010 generated almost 29 billion dollars. In 2010, almost 49 million visitors came to the city and many of them rode the double-decker buses.
47. The double-decker tour bus market (dominated by Twin America) generates revenues in the hundreds of millions of dollars, much of it generated in cash.
48. Finally, I would urge that the “STB” take oral testimony from the employees of Twin America and particularly from CitySights employees. Much of this testimony would contradict the assertions made by Mr. Marmustein in his verified statement wherein he attests to the substantial integration of CitySights and Gray Line operations.
49. Oral testimony from CitySights and Gray Line employees would contradict Mr. Marmustein’s factual statements.

50. I, and other tour guides, are willing to testify not only as to Mr. Marmustein's misrepresentations, but also to the many negative consequences and the adverse effects of the "joint venture" creating Twin America.
51. The truth of the matter is that Mr. Marmustein's statements do not correspond to the actual reality of the situation. Throughout the entire period from the creation of the "joint venture" until the "STB" decision of February 8, 2011, there was very little integration of the CitySights and Gray Line operations.
52. There were: (i). separate buildings in midtown; (ii). separate garages for the buses; (iii). separate payroll companies; (iv). separate human resource offices with separate human resource directors; (v). separate operations offices with separate operations managers; and, (vi). even, separate Christmas parties.
53. Mr. Marmustein's statements in support of the alleged integration of Twin America operations are really statements about the downscaling of operations at CitySights which may foretell its eventual liquidation.
54. Its appears that since February 8, 2011, Twin America has made some attempts to integrate operations but only as a reaction to the "STB" decision of that date. Twin America may be attempting to create irreversible facts to argue as to why the "STB"'s order cannot be realized at some future date, when this matter is finally decided.
55. Accordingly, the "STB" should issue an immediate order enjoining Twin America from taking any measures to further integrate operations between CitySights and Gray Line.

Dated: April 27, 2011

Respectfully submitted,

  
Onel Alfaro

# CitySights NY

**DATE:** MARCH 17, 2009  
**TO:** CITYSIGHTS NY EMPLOYEES  
**FROM:** SENIOR MANAGEMENT  
**SUBJECT:** JOINT VENTURE CITYSIGHTS NY&GRAY LINE SIGHTSEEING  
**EFFECTIVE DATE:** MARCH 31, 2009

*Gray Line Sightseeing is entering into a Joint Venture with CitySights NY effective March 31, 2009. The Joint Venture will be called Twin America, LLC. We've put together a fact sheet of what this means to you as a current employee.*

**Who is in charge of this Joint Venture?** The President of Twin America LLC will be Mark Marmurstein. Tom Lewis will be the Senior Vice President of Tourism and Governmental Affairs.

**Who do I work for?** You will continue to work for CitySights NY.

**Will there be any changes in my reporting structure?** The current City Sights Management Team will remain in place; we do not anticipate changes in any reporting structures.

**What will happen to the Gray Line Buses?** Gray Line will continue to function under the Gray Line emblem.

**What will happen to CitySights Buses?** CitySights buses will continue to function under CitySights logo.

## **NON-UNION EMPLOYEES:**

**Are my benefits changing?** All existing benefits will remain the same.

**Will the Workers' Compensation coverage change?** This coverage, as required by state law will not change and is unaffected by the Joint Venture.

## **UNION EMPLOYEES:**

All aspects of your employment will be governed by the appropriate collective bargaining agreement.

**EXHIBIT "A"**



April 6, 2009

To: All Employees

From: Mark Marmurstein – President

Everyone is aware of the joint venture between Gray Line and City Sights and I realize that many of you have questions. Over the last few weeks, I have met with employees from within all the departments in Gray Line. Thank you for the informative suggestions and feedback.

I would like to answer and address some of your questions and concerns:

1. It is our intention to keep and maintain both the Gray Line and City Sights brands; each brand is important and has a tremendous value in the marketplace.
2. We will honor all the union contracts that are in place and will continue to stand by all our obligations.
3. The new joint venture will continue to invest in equipments; personnel, marketing and technology to help our company and both of our brands grow.
4. There is no plan in place to do layoffs. As with millions of other companies, we are concerned about the economy and especially tourism. It is important we continue to be aggressive in the marketplace and fill every available seat. Remember that we have to fight every other attraction in NYC for the Tourism dollar. I am confident that as long as we continue to provide a quick, reliable, entertaining service and keep pushing for sales in the streets, the reservation department, the visitor centers, and internet on the web we will have an excellent year.
5. "For a majority of the employees and all of our union-represented employees, the joint venture will not affect your job". You will continue to perform the same job functions and will continue to report to your immediate supervisor or manager.

There are some reporting and structural changes that you should be aware of:

Tom Lewis and Paul Seeger are Executive Vice Presidents of Twin America and will report to me. Each one brings a wealth of knowledge, operational and organizational skills, that will help us to grow. Please give each of them your full cooperation.

Mitchell Cantor is, now the CFO for Twin America, reporting to Mark, Tom and Paul.

Shaimila Ogeer-DeSarno is now the Executive Assistant for Twin America.

We have set up a mail box, @ 212-397-2600 Ext. 275 and email:  
[twinamerica@yahoo.com](mailto:twinamerica@yahoo.com) for you to voice your questions, suggestions and concerns.

I look forward to working with you in creating a new, successful company.

Onel Alfaro  
901 Wyckoff Avenue  
Ridgewood, New York 11385  
Cell: (347)277-5497

June 12, 2009

U. S. Department of Justice  
Citizens Complaint Center  
Antitrust Division  
950 Pennsylvania Avenue  
Room 332  
Washington, C.C. 20530

Re: Proposed Joint Venture between  
Gray Line and CitySights

Déar Sir/Madam:

I am currently employed as a tour guide at the above mentioned CitySights. I enclose two documents that were distributed to CitySights employees on March 17 and April 6, 2009 regarding a supposed "joint venture" between Gray Line and CitySights.

### Background

Gray Line and CitySights are in the tour-bus business in New York City. Grayline and CitySights are the number one and two tour-bus companies (respectively) in the New York City market and between them control almost 90% of the market. Please note that the New York City area is the largest tourism market in the country. Gray Line was the older and more established industry leader with CitySights being the later "upstart".

Until recently Gray Line always charged about 10% more for their basic tour package than CitySights did for their basic package. CitySights established itself and built market share by charging less than Gray Line. Immediately after the announcement of the "joint venture" CitySights raised its prices to the same level as charged by Gray Line.

In addition, CitySights paid its tour guides 14.2% more than Gray Line paid its tour guides. In the months since the announcement of the "joint venture" CitySights has taken steps that reduce the effective take-home pay of its tour-guides to a rate equal to that paid to the Gray Line tour guides.

EXHIBIT "C"

Both companies run extensive non-tour-bus operations that permit them to cross-subsidize their tour-bus operations and allows them to create entry barriers for any other potential tour-bus operator.

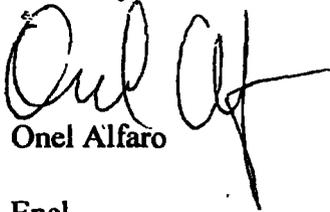
To this date there have been no new operations commenced by the supposed "joint venture" and no evidence whatsoever that they are operating any joint venture.

### Complaint

My complaint is that Gray Line and CitySights have colluded to exercise their monopolistic market power to manipulate the prices charged to the consumer and to exercise their monopsonistic market power to control the wages paid to their employees. I believe that the above amounts to an illegal restraint of trade.

Should you need to further discuss this matter please contact me at the above address or by email at [alfaroleno@aol.com](mailto:alfaroleno@aol.com) or at 347-277-5497.

Sincerely,

A handwritten signature in black ink, appearing to read "Onel Alfaro". The signature is written in a cursive style with a long horizontal stroke at the end.

Onel Alfaro

Encl.

Cc: NYS Attorney General



**U.S. Department of Justice**

**Antitrust Division**

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*Main Justice Building  
950 Pennsylvania Ave, N.W.  
Washington, DC 20530*

July 2, 2009

Onel Alfaro  
901 Wyckoff Avenue  
Ridgewood, NY 11385

**Re: Proposed Joint Venture between Gray Line and CitySights**

Dear Onel:

Thank you for contacting the Antitrust Division of the U.S. Department of Justice. This letter is to acknowledge that the Citizen Complaint Center of the Antitrust Division of the Department of Justice has received your letter dated June 12, 2009, regarding the proposed joint venture between Gray Line and CitySights.

The Citizen Complaint Center has reviewed your letter, and we have forwarded it to the appropriate legal staff for further review. We have your information on file and should the legal staff need further information, they may contact you in the future.

We appreciate your interest in the enforcement of federal antitrust laws.

Sincerely,

Citizen Complaint Center  
Antitrust Division  
Department of Justice

**EXHIBIT "D"**

**CERTIFICATE OF SERVICE**

**I certify that I have this 1<sup>st</sup> day of May 2011, I served a copy of the foregoing Comment by United States mail to the following:**

Mark A. Berman  
Ganfer & Shore, LLP  
360 Lexington Avenue  
New York, NY 10017

U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E  
Washington, DC 20590

Gabriel Levinson  
Ganfer & Shore, LLP  
360 Lexington Avenue  
New York, NY 10017

New York State Department of State  
Division of Coastal Resources  
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David H. Coburn  
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1330 Connecticut Avenue N.W.  
Washington, DC 20036

Karen Fleming  
Transport Workers Union America  
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Linda S. Stein  
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Washington, DC 20036

U.S. Department of Justice  
Antitrust Division  
950 Pennsylvania Avenue, N.W.  
Washington. DC, 20530

Michael P.A. Cohen  
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875 15<sup>th</sup> Street, N.W.  
Washington, DC 20005

James Yoon  
State of New York Office of the Attorney General  
120 Broadway, Suite 26C  
New York, 10271

Dated: May 1, 2011

  
Onel Alfaro