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SERVICE DATE – MARCH 5, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21060

ACADEMY BUS LLC—ACQUISITION OF THE PROPERTIES OF EVERGREEN TRAILS
INC. D/B/A HORIZON COACH LINES

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: Academy Bus LLC, a motor carrier of passengers (Academy), has filed an application under 49 U.S.C. § 14303 to acquire property of Evergreen Trails Inc. d/b/a Horizon Coach Lines (Evergreen), a motor carrier of passengers. The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action. Persons wishing to oppose the application must follow the rules at 49 C.F.R. §§ 1182.5 and 1182.8.

DATES: Comments must be filed by April 20, 2015. Applicant may file a reply by May 4, 2015. If no comments are filed by April 20, 2015, this notice shall be effective on April 21, 2015.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MCF 21060 to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, send one copy of comments to Academy's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1919 M Street, N.W., 7th Floor, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm, (202) 245-0391. Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Academy is a motor carrier licensed by the Federal Motor Carrier Safety Administration (FMCSA) (MC-646780) and primarily provides charter bus operations in Florida. Academy is owned by Academy Bus (Florida) ESB Trust, which is controlled by Francis Tedesco, sole trustee. The Tedesco Family ESB Trust, a separate trust of which Francis Tedesco and Mark Tedesco are beneficiaries, directly controls the following noncarriers: Academy Bus, L.L.C. (ABL)¹; Franmar Logistics, Inc.; Franmar Equities, Inc.; and Log Re, Inc. ABL owns the following carriers: Academy Express, L.L.C., Academy Lines,

¹ Please note that while applicant Academy Bus LLC is a Florida motor carrier, Academy Bus, L.L.C. –ABL– is a New Jersey noncarrier holding company.

L.L.C., and Number 22 Hillside, L.L.C. Evergreen, a motor carrier licensed by FMCSA (MC-107638), provides charter operations in North Carolina and other locations. Evergreen is owned by TMS West Coast, Inc., a noncarrier holding company, which is in turn owned by FSCS Corporation, another noncarrier holding company. Francis W. Sherman is the controlling shareholder of FSCS Corporation, which also owns noncarriers TMS Canada Holdings, Ltd. and Horizon Coach Lines NC, Inc.

Under the proposed transaction, Academy seeks to acquire the sublease to Evergreen's Durham, N.C. terminal, certain charter contracts, all furniture, fixtures, equipment, computers, machinery apparatus, appliances, signage, supplies, parts inventory, forklifts, shop tools, office equipment, desks, telephones, telex and telephone facsimile numbers and other directory listings, goodwill and other intangible assets, advertising, marketing and promotional materials, studies, reports, and all other printed or written materials used in and relating solely and exclusively to Evergreen's business operations from its Durham terminal.² Academy states that this acquisition would allow it to expand its charter operations to serve the southeastern area of the United States. Academy further states that if the transaction is approved, it would continue to serve potential charter parties in the vicinity of the Durham terminal.

Under 49 U.S.C. § 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) the effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. Academy has submitted information, as required by 49 C.F.R. § 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. § 14303(b), and a statement that Academy and its motor carrier affiliated companies and Francis W. Sherman and his motor carrier affiliated companies have aggregate gross annual operating revenues in excess of \$2 million.³

Applicant asserts that the proposed transaction is in the public interest because the acquisition would allow continued operations from the Durham terminal by an "experienced and successful motorbus operator."⁴ Academy states that the proposed transaction would not diminish competition, as Evergreen would continue to operate from other locations in North Carolina. Academy further states that the proposed transaction would not result in an increase to total fixed charges. Finally, Academy states that the transaction would have no adverse effect upon the Durham terminal's employees, as these employees would have the opportunity to gain employment with Academy.

² The application states that 30 vehicles that had been operated from the Durham terminal by Evergreen are being sold to Franmar Leasing, Inc., a noncarrier engaged in the business of leasing buses.

³ The showing of \$2 million gross operating revenue is required under 49 U.S.C. § 14303(g) for the Board to have jurisdiction over the transaction.

⁴ Application 5.

On the basis of the application, the Board finds that the proposed transaction is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings 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 C.F.R. § 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

The party's application and Board decisions and notices are available on our website at "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 transaction is approved and authorized, subject to the filing of opposing comments.
2. If opposing comments are timely filed, the findings made in this notice will be deemed as having been vacated.
3. This notice will be effective April 21, 2015, unless opposing comments are timely filed.
4. A copy of this decision will be served on: (1) U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

Decided: March 2, 2015.

By the Board, Acting Chairman Miller and Vice Chairman Begeman.