

237101

ENTERED  
Office of Proceedings  
November 25, 2014  
Part of  
Public Record

LAW OFFICES  
FRITZ R. KAHN, P.C.  
1919 M Street, NW (7th fl.)  
Washington, DC 20036

Tel.: (202) 263-4152 Fax: (202) 331-8330 E-mail: xiccgc@gmail.com

November 25, 2014

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, D. C. 20423

Re: Docket No. MCF 21059, Academy Express, L.L.C.—Acquisition of  
Properties of Go Bus LLC and its affiliate, MCIC Corp.

Dear Ms. Brown:

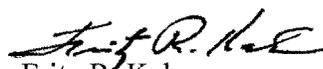
Attached for filing in the subject proceeding is the Reply of Academy Express, L.L.C. to the Comments of the International Association of Sheet Metal, Air and Transportation Workers, Transportation Division, filed November 10, 2014.

Please accept this late filing. I assumed that I had 20 days to file the Reply of Academy Express, L.L.C., pursuant to 49 C.F.R. 1104.13(a), and overlooked that the Board in its Decision, served September 24, 2014, directed that the Reply was due November 24, 2014.

A copy of this letter and of the Reply are being mailed by me by prepaid first class mail to counsel for the Commentors.

If you have any question concerning this filing or if I otherwise can be of assistance, please let me know.

Sincerely yours,

  
Fritz R. Kahn

SURFACE TRANSPORTATION BOARD

---

Docket No. MCF 21059

ACADEMY EXPRESS, L.L.C.  
--ACQUISITION OF PROPERTIES OF--  
GO BUS LLC and its affiliate, MCIZ CORP.

---

REPLY  
OF  
ACADEMY EXPRESS, L.L.C

Fritz R. Kahn  
Fritz R. Kahn, P.C.  
1919 M Street, NW (7th fl.)  
Washington, DC 20036  
Tel.: (202) 263-4152

Attorney for

ACADEMY EXPRESS, L.L.C.

Dated: November 25, 2014

SURFACE TRANSPORTATION BOARD

---

Docket No. MCF 21059

ACADEMY EXPRESS, L.L.C.  
--ACQUISITION OF PROPERTIES OF--  
GO BUS LLC and its affiliate, MCIZ CORP.

---

REPLY  
OF  
ACADEMY EXPRESS, L.L.C

Applicant, Academy Express, L.L.C., pursuant to 49 U.S.C. § 14303 and 49 C.F.R. Part 1182, filed its Verified Application respectfully requesting the Board's authorization to acquire certain properties of Go Bus LLC, and its affiliate, MCIZ Corp. The Board served its Decision giving tentative approval of the Verified Application on September 24, 2014.

On November 10, 2014, the International Association of Sheet Metal, Air, Rail and Transportation Workers, Transportation Division ("SMART") filed its Comments. The undersigned assumed that, in accordance with 49 C.F.R. § 1104.13(a), he had twenty days to file the Reply of Academy Express, L.L.C., having failed to note that the Decision of the Board said its Reply was due November 24, 2014. Academy Express, L.L.C. respectfully asks that the Board accept this late filing.

Academy Express, L.L.C. is one of the largest motor carriers of passengers principally engaged in charter operations, operating well over 400 buses. Attached is the Certification of Mr. Mike Horak, the Director of Safety and Risk Management of

Academy Express, L.L.C., which permits of no doubt that it is an extraordinarily safe operator.

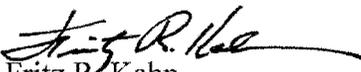
Much of SMART's Comments relate to Go Bus LLC and its affiliate MCIZ Corp. Academy Express, L.L.C. clearly cannot respond to SMART's allegations pertaining to the safety of the operations of the two motor carriers of passengers. The two companies are proposing to leave the business of being motor carriers of passengers. Academy Express, L.L.C. will want to acquire certain properties of the two companies, which will assure that operations formerly conducted by Go Bus LLC and MCTZ will be performed in the extraordinarily safe manner that Academy Express, L.L.C. renders its services.

WHEREFORE, Academy Express, L.L.C. respectfully requests that the Board allow the transaction tentatively approved by its Decision, served September 24, 2014, to become effective at an early date.

Respectfully submitted,

ACADEMY EXPRESS, L.L.C.

By its attorney:

  
Fritz R. Kahn  
Fritz R. Kahn, P.C.  
1919 M Street, NW (7th fl.)  
Washington, DC 20036  
Tel.: (202) 263-4152

Dated: November 25, 2014

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
DOCKET NO MCF 21059  
ACADEMY EXPRESS, L.L.C.  
ACQUISITION OF PROPERTIES OF  
GO BUS L.L.C. AND ITS AFFILIATE, MCIZ CORP.

CERTIFICATION OF MIKE HORAK IN OPPOSITION TO AND IN RESPONSE TO  
COMMENTS OF THE INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR,  
RAIL AND TRANSPORTATION WORKERS, TRANSPORTATION DIVISION (“SMART”)

Mike Horak certifies as follows:

1. I am the Director of Safety and Risk Management of Academy Express LLC (“Academy”) and by reason of my position, association and relationship, I have personal knowledge of all matters stated herein unless otherwise indicated.
2. I have reviewed the November 10, 2014 filing of *COMMENTS OF THE INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL AND TRANSPORTATION WORKERS, TRANSPORTATION* (hereinafter, the “COMMENTS”). For the reasons hereinafter stated I submit that the positions outlined by SMART in its COMMENTS are purely subjective and otherwise based on an inaccurate interpretation of the SMS data obtained from the FMCSA’s Safety Management System (SMS).

This Certification is submitted in opposition to SMART’s position that the Academy’s Petition seeking approval of its acquisition of certain assets of GOBUS and MCIZ is not in the public interest and in further support of Academy’s request that STB approve the Petition.

3. In support of SMART's position that the STB would not act in the public interest by approving Academy's Petition to acquire certain assets of GOBUS and MCIZ CORP, SMART asserts its "concern" over Academy's safety fitness alleging that,

**"...Due to the considerable violations contained in the FMSCA report, [SMART] ...is troubled by the potential safety ramification of this transaction" (See, SMART TRANSPORTATION DIVISON'S POSITION, pg. 3, COMMENTS, Paragraph 2).**

In support of that position SMART contends that,

**"Academy Express has 286 violations and exceeded the FMCSA's intervention threshold relative to hours of service ("HOS") compliance (Exhibit A)....."**

SMART's position is biased, purely subjective, devoid of merit, and based on an inaccurate interpretation of the data SMART references from the FMCSA's Safety Management System (SMS) data to which it refers.

4. The Academy SMS data establishes that Academy underwent 620 inspections relative to HOS. Of those 620 inspections only 59 (or 9%), not 286 as alleged by SMART, involved any recognized infraction. Of those 59 cited SMS inspection instances, sixteen (16) were cited with regard to form and manner only, which relates to an error in the manner the driver's log was completed by the driver as to form only. As an example, the instances cited could be related to simple listing a destination as NYC, rather than spelling out New York City. An additional 32 of the cited inspections were due to the driver not keeping the driving log current, which relates to entering the driver's last location in the driver's log.

5. It is significant that these cited instances do not affect actual driving (as SMART appears to contend), since there are no corresponding hours of driving violations reported. I note that Academy's **violations weighted average**, reported by SMS, is only **0.37**, which contrary to SMART's contentions, demonstrates the lack of significant, repetitive violations.

I also observe that the SMS data establishes that only nine (9%) percent of all Academy inspections reported a violation. Significantly, of the nine (9%) percent reported, eighty one (81%) percent were not hours violations. None of these facts are identified and mentioned by SMART in its COMMENT, because these facts clearly refute SMART's primary premise that Academy is not a safe motor coach operator, a position which itself is contradicted by Academy's FMSCA "Satisfactory" safety rating (acknowledged by Smart). Academy's Satisfactory safety rating by law, in and of itself, establishes and confirms to STB, that Academy holds the required safety fitness rating necessary to approve Academy's Petition, and that SMART's allegations regarding safety fitness are contradicted by the FMSCA motor carriers safety fitness rating.

The SMS data also indicates that Academy had no serious violations as defined by SMS. Additionally, in all categories, driver out of service violations were only 0.9%. The national average for passenger motor carriers is 5.5%. A copy of Academy current SMS data relative to HOS is attached as Exhibit A to this Certification.

6. **Academy Response to overall Comments and summary:**

SMART next contends that,

**"Academy Express also received numerous violations for vehicle maintenance....."**

Academy has received some inspection violations, as have most all carriers that have been inspected to any degree of significance in the United States. Nevertheless, Academy maintains an FMCSA SMS maintenance rating in the top 10% of all rated motor carrier companies in the United States. Academy has repeatedly been praised for its vehicle maintenance program by various governmental and private organizations.

For example the State of New York, Department of Transportation annually reports the results of its motor coach fleet inspections to the industry and to the public. On May 30, 2014, Academy Express received communication from NYDOT congratulating "...operators who have achieved the goal of 90% or greater pass rate on inspections". The Acting Director, Passenger Carrier Safety Bureau wrote Academy as follows:

**"We would like to congratulate those operators who have achieved the goal of a 90% or greater pass rate. Your commendable performance indicates a strong dedication to safety and a commitment to sound maintenance stands and practices."**

For the year 2013-2014 Academy received a 97.1% safety rating from NYDOT (See, Exhibit B (1 and 2) attached to this Certification.

On May 15, 2014, Academy received a letter from the Transportation Safety Exchange related to its comprehensive review No. 2014295, dated March 6 through March 28, 2014, commending Academy for its 1.60 safety rating (the TSX Program factor and overall factor ratings range is from 1.00 to 5.00, with 1.00 established as the highest rating). Academy is a TSX approved motor carrier. (See, Exhibit B (4) to this Certification)

On March 7, 2012, Academy received a letter of commendation from Consolidated Safety Services regarding inspection number 2112317, inspection date February 28, 2012. In pertinent part the letter states the Consolidated Safety Services (CSS) is the safety inspection contractor for the Defense Travel Management OFFICE (DTMO). CSS conducted a Facility, Terminal and Equipment inspection of Academy operations for compliance with the Military Bus Agreement and Federal Motor Carrier Safety Regulations. CSS rates a carrier on a scale of 1 to 5, with 1 being the best rating. Academy received a 1 rating from CSS. (See, Exhibit B (3) attached to this Certification.

As previously stated in this Certification Academy also holds a “Satisfactory” rating from FMCSA establishing Academy’s safety fitness standard as prescribed in 49 C.F.R. 385.5 to conduct passenger motor coach operations. (See, Exhibit B (5) attached to this Certification.

There is simply no factual basis to support SMART’s contention that Academy “safety fitness” is not acceptable.

7. Academy Express, LLC. is a highly respected motor coach operator in business over 46 years, operating a large fleet with locations in multiple states on the east coast, and maintaining a satisfactory safety fitness rating. Academy operates state-of-the-art maintenance facilities at all locations, including road service capabilities. Academy has in-house training facilities for drivers that includes the use of dedicated training equipment, instructors, classrooms, safety training, accident avoidance programs, and advanced technology equipment. Academy employs an entire department of full-time safety managers to oversee motor coach operations, and to monitor driver performance Academy has incorporated the latest significant technologies into its operations including drive cam. Academy’s safety and security programs and policies go far beyond the safety requirements mandated by any state or federal agency regulating the motor coach industry. Academy has been audited by, and received one of the best safety rankings by Transportation Safety Exchange (TSX), a nationally recognized private bus and motor coach audit company with complex and in-depth inspection protocols that is recognized by the NCAA for qualified passenger transportation. Academy is also audited for safety fitness and compliance with federal regulations by the US Department of Defense for approved military transportation providers. Academy also holds a satisfactory safety fitness rating from FMCSA (the best rating available).

8. I would like to call the STB's attention to the disclaimer outlined on all SMS data reports noting, contrary to SMART's attempted use of such information that,

***“The ! Symbol is not intended to imply any federal safety rating of the carrier pursuant to 49 USC 31144. Readers should not draw conclusions about a carrier’s overall safety condition simply based on the data displayed in this system” Unless a carrier in the SMS has received and UNSATISFACTORY safety rating pursuant to 49 CFR Part 385, or has otherwise been ordered to discontinue operations by the FMCSA, it is authorized to operate on the nation’s roadways.”*** (Emphasis Added).

9. In its Comment, SMART also directs to STB's attention to the motor carrier Adirondack Transit Lines, Inc., d/b/a/ Adirondack Trailway's seemingly attempting to draw a comparison between the two motor coach operators based of safety fitness. Admittedly, Academy and Adirondack are substantially different companies in size, but not as regards their respective safety ratings which notably are each "Satisfactory" and thereby equivalent. Academy as noted by SMART, primarily operates in various Northeast and Mid- Atlantic states in which Adirondack does not operate. It is submitted that Academy's focus and dedication on fitness safety is verified and confirmed by its fitness safety rating from FMSCA and the letters of commendation that Academy has received from various governmental organizations and industry groups dedicated to the safety fitness of motor carriers.

10. In its Comment to the STB, Smart contends that STB should deny approval of the asset purchase transaction for safety fitness, despite the fact that FMSCA has given Academy, GOBUS and MCIZ "Satisfactory" safety ratings. SMART submits its opposition on this ground knowing that as regards motor carrier "safety fitness" the law mandates and recognizes that a "Satisfactory" safety rating establishes the unequivocal qualification of the motor carrier with regard to its continued operations.

**Unless a carrier in the SMS has received and UNSATISFACTORY safety rating pursuant to 49 CFR Part 385, or has otherwise been ordered to discontinue operations by the FMCSA, it is authorized to operate on the nation's roadways." (Emphasis Added).**

11. While acknowledging the fact that Academy meets the legal safety fitness requirement to operate as a motor carrier, SMART nonetheless proposes to STB some unilateral, nebulous, unidentified, undefined, and legally unaccepted new "SMART safety fitness" standard for the STB to apply to determine the qualification of a motor carrier to operate, and thereby seeks to displace settled law and regulation in that regard. It is submitted that the STB should reject SMART's approach as it has no factual support in this record and is not legally supportable. The safety fitness standard of a carrier is established solely by its FMSCA "Satisfactory" rating and nothing else. Nevertheless, clearly knowing the law, SMART proposes without any competent legal authority, that STB reject the "satisfactory" safety fitness rating of Academy conveniently ignoring that neither the law, nor regulation, recognize an alternate safety fitness threshold standard.

12. As if all of that were not misleading enough, SMART also totally misrepresents the factual complex Academy presented to STB in its application, and the nature of the pending asset purchase transaction for which Academy seeks approval, referencing a non-existent equity transaction in its place and stead. SMART engages in nothing less than clear speculation when it contends that,

"Academy Express' acquisition of these two entities might compound the safety issues it has experienced. Accordingly, approving this transaction could raise serious questions as to the adequacy of the transportation to the public and could have a negative impact on public safety, including the safety of the passengers on these carriers." (See Smart, Comments p.4, par. 3, Emphasis Added)

13. Academy's application in this matter, as noted by STB in its initial decision in this case, relates to the purchase of specific designated assets (customer lists, telephone

numbers, websites, trade name, charter, one interstate and one intrastate line run service) and not the membership interest and equity interests of the owners of GOBUS or MCIZ CORP, which after the intended transaction will remain separate and distinct legal entities, although no longer operated as motor carriers.

14. Nor is there a factual basis to support the SMART's banal assertion, that if the STB approves the GOBUS/MCIZ asset purchase transaction, such approval "...*might compound the safety issues*". SMART offers no substantiated facts as a basis to support this wild unfounded speculation and accusation. In fact, Academy's safety history following several asset purchase transactions approved by the STB over the past three years establishes exactly the opposite. Over the past three years this Board has approved similar asset purchase applications of Academy (See, **Entertainment Tours Inc. MCF 21043 (June 14, 2012)**; **Conway Bus Service, Inc. – Sale of Assets MCF 21053 (July 3, 2013)**; **Evergreen Trails/Horizon MCF 21056 (January 6, 2014)**). Yet, in each case, the record fails to establish that after such asset acquisitions Academy's FMSCA safety fitness rating was adversely affected. In fact, as identified in this Certification, Academy has been recognized for its safety fitness by various governmental and industry organizations in 2012, 2013 and 2014.

The comments submitted by Smart are flawed and outrageous and do not accurately reflect the safety fitness record of Academy Express, LLC. For the reasons stated herein the Comments in opposition to Academy's pending Petition in this matter should be rejected by STB.

15. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me were willfully false I would be subject to punishment.



Michael Horak

Dated: November 25, 2014

## **EXHIBIT A**



**ACADEMY EXPRESS**

**LLC**

U.S. DOT#: 905572  
 Address: 111 PATERSON AVENUE  
 HOBOKEN, NJ 07030  
 Number of Vehicles: 478  
 Number of Drivers: 1,038  
 Number of Inspections: 856

**Safety Rating & OOS Rates**

(As of 11/23/2014 updated daily from SAFER)

**SATISFACTORY**  
 (Rating Date: 04/13/2011)

**Out of Service Rates**

Type	OOS %	National Avg %
Vehicle	3.7	20.7
Driver	0.9	5.5
Hazmat		4.5

**Licensing and Insurance**

(As of 11/23/2014 updated hourly from L&I)

Type	Active For-Hire Authority	
	Yes/No	MC#/MX#
Property	No	
Passenger	Yes	MC-413682
Household Goods	No	
Broker	No	

**BASIC Status** (Public View)

Behavior Analysis & Safety Improvement Categories (BASICS)

Based on a 24-month record ending October 24, 2014

Unsafe Driving	Crash Indicator	Hours-of-Service Compliance	Vehicle Maintenance	Controlled Substances and Alcohol	Not Public Hazardous Materials Compliance	Driver Fitness

Denotes this carrier exceeds the FMCSA intervention threshold relative to its safety event grouping based upon roadside data and/or has been cited with one or more serious violations within the past 12 months during an investigation. Therefore, this carrier may be prioritized for an intervention action and roadside inspection.

**BASIC: Hours-of-Service Compliance**

ON-ROAD + INVESTIGATION



**On-Road Performance**

Measure: 0.37 ?

*EXHIBIT A (1)*

Percentile: 57%

Scale 0 to 100; 0 indicates the best safety performance.

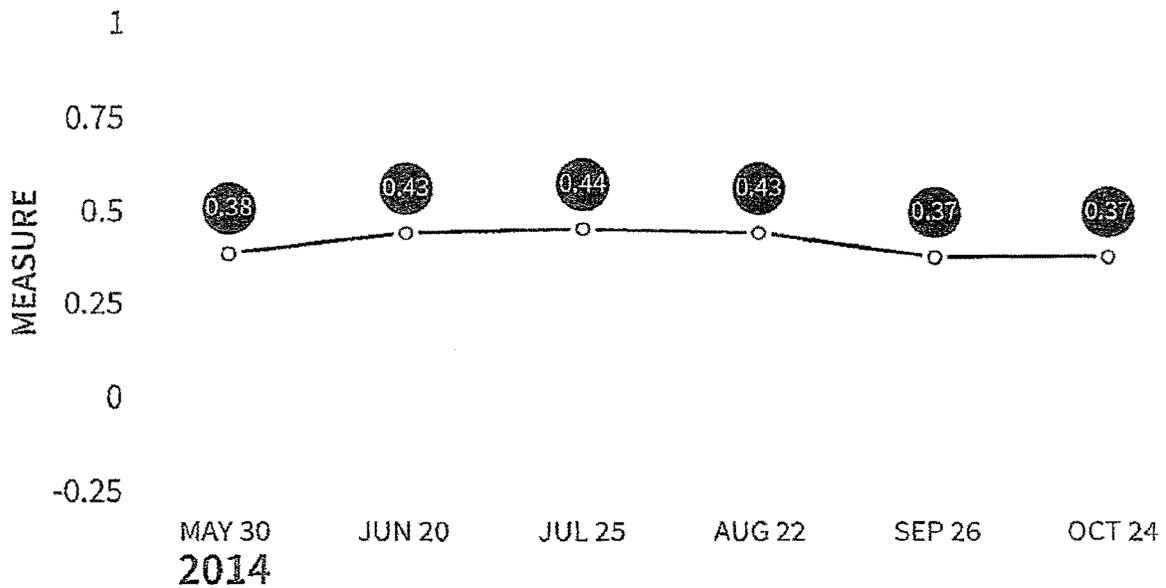
57% of motor carriers in the same safety event group have better on-road performance than this motor carrier.

### Investigation Results

No Serious Violations Discovered

### CARRIER MEASURE OVER TIME

This graph displays a carrier's measure based on 24 months of on-road performance. Zero indicates the best performance. To see how the measure is calculated [click here](#). To see how the measure relates to percentile [click here](#). [Expand](#) for more information.



### VIOLATION SUMMARY

HOS Compliance Violations: 59

Violations	Description	# Violations	# OOS Violations	Violation Severity Weight
395.8(f)(1)	Driver's record of duty status not current	32	0	5
395.8	Driver's record of duty status (general/form and manner)	16	0	1
395.5A1-PASS	Driving after 10 hour driving limit (Passenger carrying vehicle)	5	3	7
395.5A2-PASS	Driving after 15 hours on duty (Passenger carrying vehicle)	4	1	7
395.8(e)	False report of driver's record of duty status	1	0	7
395.8(k)(2)	Driver failing to retain previous 7 days' logs	1	1	5

### INSPECTION HISTORY

Driver Inspections: 673

*EXHIBIT A(2)*

Please select to view your Inspection History. You can also sort your data by Date, Report Number, Vehicle Type, etc.

- Driver Inspections **673** (or)
- With HOS Compliance Violations (53)
- Without HOS Compliance Violations (620)

Report			Vehicle			Measure =		
						Sum of the Total Weight (TotW)		
						Sum of the Time Weight (TiW)		
Inspection Date	Number	State	Plate Number	Plate State	Type	Severity Weight (SW)	Time Weight (TiW)	Total Weight (TotW)
10/19/2014	NYMC54000737	NY	P831754	IL	Motor Coach	0	3	0
10/18/2014	NY1104010703	NY	P831776	IL	Motor Coach	0	3	0
10/18/2014	NY1104010708	NY	AN804V	NJ	Motor Coach	0	3	0
10/18/2014	NY1104010710	NY	P831728	IL	Motor Coach	0	3	0
10/16/2014	PAS184006509	PA	P850989	IL	Motor Coach	0	3	0
10/10/2014	PAC028003991	PA	P831757	IL	Bus	0	3	0
10/9/2014	PAS346006578	PA	P826615	IL	Motor Coach	0	3	0
10/8/2014	NY0510011283	NY	P831756	IL	Motor Coach	0	3	0
10/6/2014	NYSAPA0223612	NY	P831743	IL	Motor Coach	0	3	0
10/6/2014	NYSAPA0223619	NY	P831762	IL	Motor Coach	0	3	0
9/28/2014	CTMV01000233	CT	AR972C	NJ	Motor Coach	0	3	0
9/27/2014	NY1104010637	NY	P831731	IL	Motor Coach	0	3	0
9/27/2014	NY1104010639	NY	P831765	IL	Motor Coach	0	3	0
9/24/2014	NJPAAX000338	NJ	13086BB	NY	Bus	0	3	0
9/23/2014	MD00DV030958	MD	P848434	IL	Motor Coach	0	3	0
9/20/2014	CTMV03503651	CT	AR970C	NJ	Motor Coach	0	3	0
9/20/2014	NY1104010607	NY	AR959C	NJ	Motor Coach	0	3	0
9/20/2014	NY1104010613	NY	P831707	IL	Motor Coach	0	3	0
9/20/2014	NY1104010614	NY	P850991	IL	Motor Coach	0	3	0
9/20/2014	NY1103013355	NY	P831757	IL	Motor Coach	0	3	0
9/19/2014	NY1104010599	NY	P828425	IL	Motor Coach	0	3	0
9/19/2014	DC4286145161	DC	P828678	IL	Bus	0	3	0
9/15/2014	NYSPT0245937	NY	P831781	IL	Bus	0	3	0
9/12/2014	PAS449004944	PA	P826378	IL	Motor Coach	1	3	3
Violation: 395.8 Driver's record of duty status (general/form and manner)						1		
9/7/2014	DET007000229	DE	P831724	IL	Motor Coach	0	3	0
9/6/2014	CTMV01000220	CT	AR971C	NJ	Motor Coach	0	3	0
9/6/2014	NY0510011154	NY	P831763	IL	Motor Coach	0	3	0
9/5/2014	DEM004009428	DE	P850993	IL	Motor Coach	0	3	0
9/5/2014	DEM002009981	DE	P828430	IL	Motor Coach	0	3	0
9/5/2014	DEM005009217	DE	P834593	IL	Motor Coach	0	3	0
9/5/2014	DEM002009982	DE	P831765	IL	Motor Coach	0	3	0
9/5/2014	DET002000736	DE	P828679	IL	Motor Coach	0	3	0
9/5/2014	NYMC32006019	NY	P850988	IL	Motor Coach	0	3	0
9/5/2014	NYMC49000529	NY	P850997	IL	Motor Coach	0	3	0
Sum of measure weights						261	1,232	459

EXHIBIT A (3)

Report			Vehicle			Measure =		
						Sum of the Total Weight (TotW)		
						Sum of the Time Weight (TiW)		
Inspection Date	Number	State	Plate Number	Plate State	Type	Severity Weight (SW)	Time Weight (TiW)	Total Weight (TotW)
9/4/2014	DEM002009973	DE	P850993	IL	Motor Coach	0	3	0
9/4/2014	DEM002009974	DE	52078P	VA	Motor Coach	0	3	0
9/4/2014	DEM002009976	DE	P831753	IL	Motor Coach	0	3	0
9/4/2014	DEM005009211	DE	P834593	IL	Motor Coach	0	3	0
9/4/2014	DEM002009971	DE	P828416	IL	Motor Coach	0	3	0
9/4/2014	DEM004009417	DE	P850997	IL	Motor Coach	0	3	0
9/4/2014	NY0513004556	NY	P828678	IL	Motor Coach	0	3	0
9/4/2014	PAC111000113	PA	52078P	VA	Motor Coach	0	3	0
9/3/2014	NY0807008526	NY	P831747	IL	Motor Coach	0	3	0
9/2/2014	DEM002009962	DE	P831757	IL	Motor Coach	0	3	0
9/2/2014	DEM002009964	DE	P826620	IL	Motor Coach	0	3	0
9/2/2014	DEM002009967	DE	P848433	IL	Motor Coach	0	3	0
9/2/2014	DEM005009203	DE	P826619	IL	Motor Coach	0	3	0
9/2/2014	DEM005009205	DE	P828679	IL	Motor Coach	0	3	0
9/2/2014	CTMV02501603	CT	P851012	IL	Motor Coach	0	3	0
9/2/2014	NY1104010534	NY	AR968C	NJ	Motor Coach	0	3	0
Sum of measure weights						261	1,232	459

PERFORMANCE MEASURE LAST MONTH As of 9/26/2014 $\frac{\text{TotW}}{\text{TiW}} = \frac{470}{1,238} = 0.37$	PERFORMANCE MEASURE THIS MONTH As of 10/24/2014 $\frac{\text{TotW}}{\text{TiW}} = \frac{459}{1,232} = 0.37$
---	--

\*\*\* The sum of all violation severity weights (violation weight + out-of-service) for this inspection has been capped at 30.

**INVESTIGATION RESULTS**

HOS Compliance Serious Violations: 0

This carrier has no Hours-of-Service Compliance serious violations to display.

**Summary of Activities**

The summary includes information on the 5 most recent investigations and 24 months of inspections and crash history.

Most Recent Investigation: 4/12/2011 (Onsite Comprehensive Investigation)  
 Total Inspections: 856

**Carrier Registration**

Subject to Passenger Threshold

**Penalties History**

(Six years as of 11/23/2014 updated daily from FMCSA)  
 No penalties found

*EXHIBIT A (4)*

Total Inspections  
without Violations used  
in SMS: 659

Total Inspections with  
Violations used in SMS:  
197

Total Crashes\* : 13

\*Crashes listed represent a  
motor carrier's involvement in  
reportable crashes, without  
any determination as to  
responsibility. Continue for  
details.

#### USE OF SMS DATA/INFORMATION

The data in the Safety Measurement System (SMS) is performance data used by the Agency and Enforcement Community.

A  symbol, based on that data, indicates that FMCSA may prioritize a motor carrier for further monitoring.

The  symbol is not intended to imply any federal safety rating of the carrier pursuant to 49 USC 31144. Readers should not draw conclusions about a carrier's overall safety condition simply based on the data displayed in this system. Unless a motor carrier in the SMS has received an UNSATISFACTORY safety rating pursuant to 49 CFR Part 385, or has otherwise been ordered to discontinue operations by the FMCSA, it is authorized to operate on the nation's roadways.

Motor carrier safety ratings are available at <http://safer.fmcsa.dot.gov> and motor carrier licensing and insurance status are available at <http://li-public.fmcsa.dot.gov/>.

(5)  
EXHIBIT A

## **EXHIBIT B**



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
ALBANY, N.Y. 12232

WWW.DOT.NY.GOV

JOAN McDONALD  
COMMISSIONER

ANDREW M. CUOMO  
GOVERNOR

May 30, 2014

OPERATOR ID 23038

ACADEMY EXPRESS  
111 PATERSON AVE  
HOBOKEN NJ 07030-

Dear Motor Carrier:

Enclosed is the annual New York State Department of Transportation Bus Inspection System Operator Profile that summarizes the results of vehicle inspections performed on your fleet by the Department during the last State Fiscal Year (April 1, 2013 to March 31, 2014). For regular inspections, the profile identifies the number and percentage of vehicles that passed or were placed Out-of-Service (OOS) due to one or more OOS defects. It is the Department's continued goal to have all operators pass at least 90% of their scheduled safety inspections. The current statewide average OOS rate is 6.5%.

We would like to congratulate those operators who have achieved the goal of a 90% or greater pass rate. Your commendable performance indicates a strong dedication to safety and a commitment to sound maintenance standards and practices.

Operators who have a passing rate of less than 90%, it is requested that your organization examine the enclosed profile inspection data and immediately update your maintenance program to reduce your OOS Rate to satisfactory levels. The Regional Bus Inspection Program Supervisor is available to review the actions being taken and provide assistance, if necessary to address these serious concerns.

For those operators whose OOS rate is 25% or greater and fall under the Department's enforcement program, you will be contacted shortly to address your unacceptable poor performance. Actions may include civil penalties, unannounced vehicle inspections, denial of B & C privileges, compliance reviews or other regulatory enforcement.

Please visit <https://www.dot.ny.gov/divisions/operating/osss/bus> for program updates.

Sincerely,

Lawrence Scoito, Acting Director  
Passenger Carrier Safety Bureau

Enclosures

cc: Regional Transportation System Operators  
Regional Bus Program Supervisor

EXHIBIT B (1)



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
ALBANY, N.Y. 12232

WWW.DOT.NY.GOV

JOAN McDONALD  
COMMISSIONER

ANDREW M. CUOMO  
GOVERNOR

ACADEMY EXPRESS  
111 PATERSON AVE  
HOBOKEN NJ 07030-

23038

Re: Notice of Calculation Error

June 3, 2014

Dear Motor Carrier:

Due to a minor system data calculation error, your 2013-2014 Annual New York State DOT Bus Inspection Profile contains an incorrect percentage calculation.

In the section titled TYPE(s) OF SERVICE; INSP. SUMMARY (the summary break down of data for each type of inspection performed) the "regular inspections" (Type 1) incorrectly incorporated the total number of "critical item" inspections (Type 0) into the percentage calculation.

This was the only section of the profile where an incorrect calculation had occurred.

We apologize for any confusion this may have caused. Please find the corrected calculation below.

INSP SUMMARY	TOTAL	PASS	PCT
REGULAR (TYPE 1)	69	67	97.1

Sincerely,

James Leonard  
ITS 1  
Passenger Carrier Safety Bureau  
(518) 457 - 6512



March 7, 2012

Inspection #: 2112317  
Inspection Date: 02/28/12

Academy Express, LLC.  
111 Paterson Ave.  
Hoboken, NJ 07030

Attention: Michael Berardesco

Consolidated Safety Services, Inc. (CSS) is the safety inspection contractor for the Defense Travel Management Office (DTMO). CSS conducted a Facility, Terminal and Equipment (FTE) inspection of your operations on the date shown above. A copy of the inspection report is enclosed for your information.

The inspection primarily measures performance in maintaining compliance with the Military Bus Agreement (MBA) and its Addendum and the Federal Motor Carrier Safety Regulations (FMCSR). The Department of Defense (DOD) rates carriers on a scale from one (1) (satisfactory) to five (5) (unsatisfactory). Your rating for this inspection is ONE (1). On behalf of the Defense Travel Management Office, we encourage your continued support of the DOD's Quality Assurance Program.

If you have any questions regarding the inspection, please contact the undersigned at the contact information listed below or via e-mail at [phanley@consolidatedsafety.com](mailto:phanley@consolidatedsafety.com). Questions regarding the Military Bus Program should be directed to Ms. Donna Johnson of the Defense Travel Management Office via e-mail at [donna.johnson@dtmo.pentagon.mil](mailto:donna.johnson@dtmo.pentagon.mil).

Sincerely,

Phil Hanley  
Contract Manager  
CSS, Transportation Safety & Security Division

Enclosure

703.691.4612 P  
800.888.4612 P  
703.691.4615 F  
10301 Democracy Lane, Suite 300  
Fairfax, Virginia 22030-2545

[www.consolidatedsafety.com](http://www.consolidatedsafety.com)

EXHIBIT B (3)

TSX Service Center  
10301 Democracy Lane  
Suite 300  
Fairfax, VA 22030  
1-855-890-8879  
May 15 2014



**TRANSPORTATION  
SAFETY EXCHANGE**  
Powered by CSS, Inc.

*Expect a Higher Standard™*

COMPREHENSIVE REVIEW No.: 2014295  
COMPREHENSIVE REVIEW DATE: March 6-28, 2014

Academy Express LLC  
Robert Keller  
111 Paterson Avenue  
Hoboken, NJ 07030

Dear Mr. Keller,

This letter is to notify you of the results of the above referenced Transportation Safety Exchange - Comprehensive Review (TSX-CR) recently conducted at your facility. A copy of the TSX-CR report is attached for your review.

During the TSX-CR investigation, compliance with applicable regulations and safety management controls was evaluated in six rating factors (five factors are applicable for non-HazMat motor carriers) as established by the TSX program. Results were combined with on-road performance information received from FMCSA to calculate overall factor ratings.

The TSX Program factor and overall factor ratings range from 1.00 to 5.00, with 1.00 established as the highest (best) rating. In accordance with TSX program standards, your overall factor rating is **1.60**. This rating entitles you to be listed as a **TSX Approved** motor carrier on the TSX Motor Carrier Network.

The TSX-CR report documents your compliance with safety regulations and management controls. If weaknesses are identified, the report is designed to guide you to initiate appropriate corrective action. In this way, TSX Approved motor carriers will continuously improve their culture of safety.

TSX will continue to monitor your on-road performance each month as reported by FMCSA. This data may impact individual factor ratings and your overall factor rating in the future. In the event that this process affects your TSX approval status, you will be notified immediately.

Congratulations on becoming a TSX Approved motor carrier! Your approval status indicates your dedication to quality and demonstrates to our subscribers your commitment to safety compliance.

If you have questions regarding the TSX-CR or the TSX Program, please e-mail me at [rwatkins@css-dynamac.com](mailto:rwatkins@css-dynamac.com) or call me at 855-890-8879.

Sincerely,

Robert A. Watkins,  
TSX Program Director

EXHIBIT B (4)



U.S. Department  
of  
Transportation  
Federal Motor  
Carrier Safety  
Administration

1200 New Jersey Ave., S.E.  
Washington, DC 20590

April 14, 2011

In reply refer to:  
Your USDOT No.: 905572  
Review No.: 869577/CR

MICHAEL BERARDESCO  
TERMINAL MANAGER  
ACADEMY EXPRESS LLC  
111 PATERSON AVENUE  
ROBOKEN, NJ 07026

Dear MICHAEL BERARDESCO:

The motor carrier safety rating for your company is:

**SATISFACTORY**

This SATISFACTORY rating is the result of a review and evaluation of your safety fitness completed on April 12, 2011. A SATISFACTORY rating indicates that your company has adequate safety management controls in place to meet the safety fitness standard prescribed in 49 C.F.R. 385.5.

Please assure yourself that any specific deficiencies identified in the review report have been corrected. We appreciate your efforts toward promoting motor carrier safety throughout your company. If you have questions or require further information, please contact:

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
ONE INDEPENDENCE WAY, SUITE 120  
PRINCETON, NJ 08540  
Telephone No.: 609-275-2604

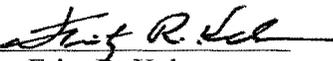
John Van Steenburg  
Director, Office of Enforcement and  
Compliance

EXHIBIT B (5)

CERTIFICATE OF SERVICE

I certify that I this day have mailed by prepaid first-class mail a copy of the foregoing Reply to Erika A. Diehl-Gibbons, Esq. counsel for SMART.

Dated at Washington, DC, this 25<sup>th</sup> day of November, 2014.

  
\_\_\_\_\_  
Fritz R. Kahn