

David H. Coburn
202 429 8063
dcoburn@steptoe.com

Steptoe
STEPTOE & JOHNSON LLP

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
202 429 3000 main
www.steptoe.com

234240
ENTERED
Office of Proceedings
May 15, 2013
Part of
Public Record

May 15, 2013

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: MC-F-21047, Frank Sherman, FSCS Corporation, TMS West Coast, Inc., Evergreen Trails, Inc. and Cabana Coaches, LLC – Acquisition and Consolidation of Assets – American Charters, Ltd., American Coach Lines of Jacksonville, Inc., American Coach Lines of Miami, Inc., American Coach Lines of Orlando, Inc., CUSA ASL, LLC, CUSA BCCA, LLC, CUSA CC, LLC, CUSA FL, LLC, CUSA GCBS, LLC, CUSA GCT, LLC, CUSA K-TCS, LLC, and Midnight Sun Tours, Inc.

Dear Ms. Brown:

This letter will update the Board on this pending matter. On June 4, 2012, motor passenger carriers Evergreen Trails, Inc. (“Evergreen”) as well as related applicants (collectively “Applicants”) filed an application under 49 U.S.C. § 14303 and the Surface Transportation Board’s (“Board”) regulations at 49 C.F.R. Part 1182 to acquire the assets (including business good will and permits) of 12 separate interstate motor passenger common carrier subsidiaries of non-carrier Coach America Holdings, Inc. (“Coach America”). As relevant here, the entities from which these assets were acquired included CUSA K-TCS, LLC (“K-TCS”), a carrier based in Nevada that held intrastate operating authority issued by the Nevada Transportation Authority (“NTA”). On September 6, 2012, the Board issued a decision approving the acquisition of control of the assets of K-TCS and the other Coach America subsidiaries by Applicants. *Frank Sherman, FSCS Corporation, TMS West Coast, Inc., Evergreen Trails, Inc. and Cabana Coaches, LLC – Acquisition and Consolidation of Assets – American Charters, Ltd., et al.* STB Docket No. MC-F-21047 (STB served September 6, 2012) (“September 6 Decision”). The transaction approved by the Board was thereupon consummated on September 12, 2012.

Following the September 6 Decision, Evergreen advised the NTA of the Board decision and requested that the NTA take the ministerial actions necessary to recognize the transfer of intrastate operating authorities from K-TCS to Evergreen, as required by federal law. However,

on September 26, 2012 the Livery Operators Association of Las Vegas (“LOA”), filed a protest with the NTA requesting that the NTA refuse to recognize the transfer of intrastate authorities approved by the Board. The NTA decided to table the issue and requested briefs from LOA and Evergreen on the matter.

On November 30, 2012 the LOA also filed a Petition to Reopen with the Board asking the Board to reverse the portion the September 6 Decision that permitted Evergreen to acquire the operating authorities of K-TCS. On December 18, 2012, Evergreen and related parties filed a Reply to the Petition to Reopen. In that Reply, Evergreen advised that it planned to initiate intrastate service in Nevada in January 2013 pursuant to the intrastate authority that had been transferred to Evergreen as a result of the Board’s September 6 Decision. On January 30, 2013, Evergreen filed a letter with the Board advising the Board that Evergreen had in fact initiated service in Nevada. That service continues to be provided. The LOA Petition to Reopen remains pending before this Board.

This letter is to inform the Board that on April 25, 2013, the NTA voted to deny LOA’s protest and recognize the transfer to Evergreen of intrastate K-TCS authorities resulting from the Board’s September 6 Decision. An NTA official has informed us that that agency will be issuing an order in the near future reflecting this decision. We will provide the Board with a copy of that order once it is issued.

Respectfully submitted,



David H. Coburn
Christopher G. Falcone

Attorneys for Frank Sherman, FSCS
Corporation, TMS West Coast, Inc.,
Evergreen Trails, Inc. and Cabana Coaches,
LLC

cc: Kimberly Maxson-Rushton, Esq.
Cooper Levenson
6060 Elton Avenue, Suite A
Las Vegas, Nevada 89107
Counsel for Livery Operators Association of Las Vegas