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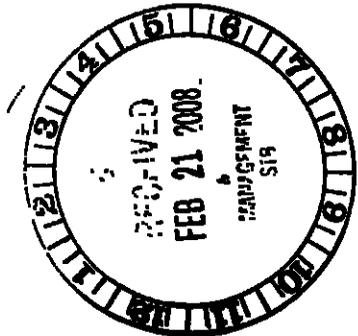
FEB 21 2008

**SURFACE
TRANSPORTATION BOARD**

February 20, 2008

Honorable Anne K Quinlan, Acting Secretary
Surface Transportation Board
395 E Street, S W
Washington, DC 20423-0001

221658



Re Holland America Line Inc - Control - Discover Alaska Tours, Inc , et al
STB Docket MC-F- 21026

Dear Secretary Quinlin

There are transmitted herewith the original and 10 copies of an application pursuant to 49 U S C §14303(a) for approval of a transaction involving the acquisition of control involving multiple motor passenger carriers, all as more fully described in the application

Also included are (1) a check payable to "Surface Transportation Board" in the amount of \$1,700 as the prescribed filing fee for this application, (2) two copies of a proposed *Federal Register* notice describing the application, and (3) a copy of this letter and a self-addressed stamped envelope with which to acknowledge receipt of this filing

Copies of this letter and the application have been served upon those parties identified in the application's "Certificate of Service "

Should you require anything further, your request to the undersigned, counsel for the parties, shall receive immediate attention

Respectfully,

Jeremy Kahn
Counsel for the Parties

FEE RECEIVED

FEB 21 2008

JK h3 **TRANSPORTATION BOARD**

Enc

CC Kelly Clark, Esq
Parties as Identified in the Application's Certificate of Service

ENTERED
Office of Proceedings

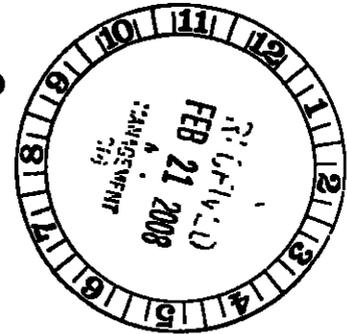
FEB 21 2008

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

IN THE MATTER OF

HOLLAND AMERICA LINE INC.



-- CONTROL --

WESTOURS MOTORCOACHES, INC
EVERGREEN TRAILS, INC
WESTMARK HOTELS OF CANADA, LTD
HORIZON COACH LINES, LTD
and
DISCOVER ALASKA TOURS, INC

STB DOCKET NO. MC-F-

21026

APPLICATION UNDER 49 U S C §14303
FOR APPROVAL OF THE ACQUISITION OF CONTROL
BY HOLLAND AMERICA LINE INC
OF DISCOVER ALASKA TOURS, INC
AND CONTINUANCE IN CONTROL OF
FOUR OTHER MOTOR PASSENGER CARRIERS

COME NOW, the parties named herein and respectfully submit this, their
Application under 49 U.S.C. §14303(a) and STB Regulations at 49 CFR §1182 for
approval of a "transaction," as described, *infra*, the end result of which will be the
control by non-carrier Holland America Line Inc of a fifth motor passenger

carrier, newly formed and registered Discover Alaska Tours, Inc , in addition to the four passenger carriers which it already controls, all as more fully described

Parties to This “Transaction”

Identity of the Parties

The parties to the proposed “transaction” are as follows

Holland America Line Inc (“HAL”), a non-carrier, is a Washington Corporation, which with previous STB authorization now controls four Federal Motor Carrier Safety Administration (“FMCSA”) registered motor passenger carriers, and which, upon approval of this application, will control a fifth FMCSA registered motor passenger carrier

The four FMCSA registered motor passenger carriers already controlled by HAL are

Evergreen Trails, Inc , d/b/a Gray Line of Seattle (“EVERGREEN”), which is a Washington corporation, registered with FMCSA in its Docket MC-107638

Westours Motor Coaches, Inc (“WESTOURS”), which is a Washington corporation, registered with FMCSA in its Docket MC-118832

Westmark Hotels of Canada Ltd (“WESTMARK”) which is a corporation formed under the laws of the Province of British Columbia, Canada, registered with FMCSA in its Docket MC-405618.

Horizon Coach Lines, Ltd ("HORIZON") which is a corporation formed under the laws of the Province of British Columbia, Canada, registered with FMCSA in its Docket MC-144339

The FMCSA registered motor passenger carrier which is to come under HAL's control is Discover Alaska Tours, Inc ("DAT"), a newly formed Alaska corporation, whose application for initial FMCSA registration is pending in Docket MC-636105

Essential Information About the Parties

EVERGREEN, doing business as Gray Line of Seattle, is a Corporation whose principal office is located at 4500 Marginal Way, S W. Seattle, WA 98106. EVERGREEN is engaged in interstate and foreign commerce as a motor passenger carrier pursuant to FMCSA registration at MC-107638 (USDOT No 12016) EVERGREEN is also engaged in intrastate operations in Washington, pursuant to appropriate state authorization

WESTOURS is a Corporation whose principal office is located at 300 Elliot Avenue West, Seattle, WA 98119 WESTOURS is engaged in interstate and foreign commerce as a motor passenger carrier pursuant to FMCSA registration at MC-118832 (USDOT No. 80587). WESTOURS is also engaged in intrastate operations in Alaska.

WESTMARK is a Corporation whose principal office is located at 999 Canada Place, World Trade Center, Vancouver, British Columbia, V6C 3C1

Canada WESTMARK is engaged in foreign commerce as a motor passenger carrier pursuant to FMCSA registration at MC-495618 (USDOT No 944769) WESTMARK is also engaged in domestic transportation within Canada pursuant to appropriate Provincial authority

HORIZON is a Corporation whose principal office is located at 326 B Industrial Avenue, Vancouver, British Columbia, V6A 2P3 Canada. HORIZON is engaged in foreign commerce as a motor passenger carrier pursuant to FMCSA registration at MC-144339 (USDOT No 175764) HORIZON is also engaged in domestic transportation within Canada pursuant to appropriate Provincial authority

DAT is a newly formed Alaska corporation whose principal office is located at 300 Elliott Avenue West, Seattle, Washington 98119. DAT is an applicant for initial interstate operating authority before the FMCSA; its application in Docket MC-636105 (USDOT No 1736644), filed February 11, 2008, is pending

All of the "common control" relationships involving the HAL corporate family and the four motor passenger carriers already under common control have been previously approved by the STB (or its predecessor, Interstate Commerce Commission) The most recent STB approval of control by HAL of EVERGREEN, WESTOURS, WESTMARK, and HORIZON is evidenced by its decision in *Holland America Line -Westours, Inc – Control – Westours*

Motorcoaches, Inc , Evergreen Trails, Inc . Westmark Hotels of Canada Ltd and Horizon Coach Lines Ltd , STB Docket No. MC-F-20988 (served February 22, 2002) The corporation known at that time as “Holland America Line-Westours, Inc ” is now known as “Holland America Line Inc ”

Pertinent Operating Authorities

The interstate operating authority held by each of the four motor carriers already under HAL control permits generally the transportation of passengers in charter and special operations service throughout the United States, that held by the two Canadian domiciled carriers, WESTMARK and HORIZON, is limited to transportation in foreign commerce, as is common for Canadian domiciled carriers DAT, the new entity, also seeks authority to transport passengers in charter and special operations throughout the United States

More particularly, the FMCSA operating authorities of the parties are as follows

EVERGREEN's essential authority is that in its Certificate in MC-107638 (Sub 11-C), which authorizes, in part, charter and special operations services between points in the United States ¹

¹ EVERGREEN also holds contract authority in MC-107638 (Sub 11-P), authorizing transportation of passengers between points in the U S , under contract with persons requiring passenger transportation, although the ICC Termination Act of 1995 eliminated the distinction between common and contract authority

WESTOURS' essential authority is that in its Certificate in MC-118832 (Sub 11-C), which authorizes charter and special operations services between points in the United States.²

WESTMARK's essential authority is its Certificate in MC-405618, which authorizes charter and special operations services between points in the United States

HORIZON's essential authority is its Certificate in MC-144339, which authorizes charter and special operations services between points in the United States

DAT's pending FMCSA application in MC-636105 seeks authority to perform charter and special operations services between points in the United States

Description of the Proposed "Transaction"

The event triggering this application is the creation by HAL of DAT and DAT's application to FMCSA for initial operating authority (i.e., "registration"). Today, with STB approval in STB Docket No MC-F-20988, *supra*, HAL, a non-carrier, already controls four motor passenger carriers, EVERGREEN, WESTOURS, WESTMARK, and HORIZON. With approval of DAT's pending application, HAL will then control a fifth motor passenger carrier

² WESTOURS' Sub 11-P permit corresponds to EVERGREEN's Sub 11-P Permit

STB has jurisdiction over this “transaction,” pursuant to 49 U S C §14303(a)(5), since it involves “the acquisition of control of a carrier [i.e., DAT] by a person that is not a carrier [i.e., HAL] but that controls any number of carriers [i.e., EVERGREEN, WESTOURS, WESTMARK, and HORIZON]” The “transaction” is DAT’s imminent award of FMCSA operating authority which will confer upon it status as a “carrier.”

Federally Regulated Carrier Affiliates

Other than the motor carriers identified above, there are no other affiliated carriers involved in this application, except that Royal Hyway Tours, Inc , Anchorage, Alaska, a motor carrier of passengers registered with FMCSA in MC-182214 (USDOT 259971), with a “satisfactory” safety rating, has a minority stock ownership interest in DAT, but as a minority shareholder, it does not exercise control

Jurisdictional Statement – Revenues

The Surface Transportation Board has jurisdiction over this matter under 49 U S C. §14303(g), because the annual aggregate gross operating revenues of the four carriers already under HAL control significantly exceed \$2 million.

Environmental Impact

The parties assert approval of this application will not constitute a Federal action having a significant effect on the quality of the human environment and the conservation of energy resources.

Public Interest Considerations

a Adequacy of Transportation Services

The proposed transaction will have no meaningful impact on the adequacy of transportation services available for the public. The "transaction" giving rise to this application involves only the initial registration of a new charter bus company, DAT, which is affiliated with a carrier group already thoroughly experienced in performing charter and tour services throughout the Pacific Northwest, including both the United States and Canada.

The addition of a fifth motor carrier to the HAL group is consistent with the practice throughout the bus industry of strong, well managed transportation organizations adapting their corporate structure to operate several different charter carriers to better serve each individual market niche in their service area. In part, HAL, which has decades of experience in operating tour-based services throughout the Pacific Northwest, has created DAT as a new entity to more effectively provide charter bus service in the southeast Alaska tour market, which has specialized service characteristics. Thus, it is an example of creating an

affiliated entity to better serve a market niche. This helps to assure the provision of adequate service for the public

Creation of this new entity will serve to enhance the viability of the overall HAL organization and the bus operations of its carriers EVERGREEN, WESTOURS, WESTMARK, and HORIZON; the continued viability of all the carriers assures the continued availability of adequate bus service for the public.

b Fixed Charges

There are no fixed charges associated with the proposed "transaction "

c Employee Interests

No carrier operations employees will be adversely affected by the contemplated "transaction." The creation of DAT will provide opportunities for increased employment throughout the territory it serves

d Competition and the Public Interest

The law requires the STB to assess competition in the market and the impact on the public interest as affected by approving an arrangement in which multiple passenger carriers are under control of a single economic entity. In making its analysis, the Board (as did its predecessor, Interstate Commerce Commission) has without exception found that proposed "common control" arrangements (however accomplished) are inherently not anti-competitive. That conclusion rests upon the finding that as a result of the ease of entry, the bus industry is characterized by healthy intra-modal competition as well as healthy

competition between bus service, on the one hand, and on the other, other modes of transportation, all of which constitute the "relevant market" *GLI Acquisition Co – Purchase – Trailways Lines, Inc*, 4 I C C 2d 591, 598-602 (1988)

The Greyhound – Trailways merger dealt with the only two nationwide, scheduled service carriers, scheduled service is a segment of the industry in which there are potential barriers to entry (i.e., terminal access) and a lessening of competition might be thought to at least be a potential issue for concern, but even there, the competitive nature of that business allayed any anti-competition concerns there might have been

This HAL application, however, involves carriers engaged in the charter and tour segment of the industry, which is vastly more competitive than the scheduled service sector. Indeed, in recent years, the Board has been called upon to consider numerous such applications as consolidation within the charter bus industry has led to a handful of larger entities acquiring many, many smaller charter and tour carriers and operating them under common control. In *each and every instance*, the Board approved these applications without any concern for competition considerations and found them to be in the public interest

All the HAL motor carriers are a part of a coordinated group, they are not in direct competition with one another, so the common control by HAL of one more carrier will have no impact on competition within the market. As stated above, to the parties' best knowledge, in treating applications under §14303, the

STB has consistently and without exception found the passenger transportation business so inherently competitive due to the low barriers to entry by new competitors, especially for a new charter carrier. The Interstate Commerce Commission's findings on this issue remain true today for this segment of the transportation business *GLI Acquisition Co – Purchase – Trailways Lines, Inc* , 4 I C C 2d 591, 598-602 (1988)

In very recent years, on the rare occasions in which the STB has been called upon to assess the “public interest” and “competition” issues inherent in the practice of the acquisition of ownership of numerous bus carriers by non-carrier entities, it has consistently and without exception approved each and every application of this sort, finding that acquisitions that contemplate the single control of numerous passenger carriers can result in better overall service for the public without any lessening of the benefits of healthy competition. A few more recent examples of many such decisions include *Firstgroup PLC – Acquisition – Cognisa Transportation, Inc* , STB Docket No MC-F-21021 (served July 30, 2007) and *Fenway Partners Capital Fund III, L P , et al –Control–Coach America Holdings, Inc , et al* , STB Docket No MC-F-21019 (served December 29, 2006) as well as similar holdings where regular route carriers (and a bit more concern about the impact on competition) have been involved in *Firstgroup PLC - Acquisition - Laidlaw International, Inc* , STB Docket No MC-F-21020 (served April 15, 2007)

and *Stagecoach Group PLC, et al – Control Megabus USA LLC*, STB Docket No. MC-F-21016 (served June 13, 2006)

In each decision in recent years – if not uniformly since the Board assumed jurisdiction over such transactions in 1996 – the Board has found that such common control arrangements are consistent with the public interest and it has approved them. The same finding is warranted here.

U.S. DOT Safety Fitness Rating

The U S Department of Transportation Safety Rating for each of EVERGREEN, WESTOURS, WESTMARK, and HORIZON is “satisfactory ” DAT, as a newly registered carrier, has not been assigned a safety rating.

Insurance Certification

Each of the five involved motor carriers now satisfies and after STB approval will continue to satisfy FMCSA requirements relating to adequate security for the public 49 U S C. §13906. Among the four existing, controlled carriers, EVERGREEN and WESTOURS are authorized by FMCSA to self-insure the first \$1 million layer of their required \$5 million BI&PD insurance, each maintains commercial insurance in excess of the self-insured limits, and each has filed appropriate evidence of such insurance with FMCSA. WESTMARK, HORIZON, each have appropriate evidence of required \$5 million insurance

coverage on file with FMCSA. DAT is in the process of having such evidence of insurance filed with FMCSA.

Mexico Certification

The parties certify that none of the companies named in this application is domiciled in Mexico, nor are they owned or controlled by persons of that country.

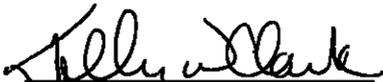
Verification

Each person signing this application verifies under penalty of perjury, under the laws of the United States of America, that all information supplied by such person on behalf of the company which he represents in connection with this application is true. Further, each person signing this application is qualified and authorized to file this application.

Each person signing further certifies under penalty of perjury under the laws of the United States, that he knows that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. §1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. §1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

ENTITY IN CONTROL

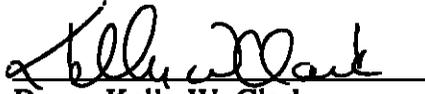
Holland America Line Inc



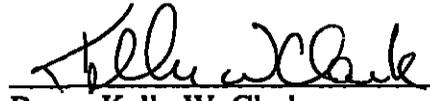
By. Kelly W. Clark
Vice President, Secretary

ENTITIES NOW UNDER HAL CONTROL

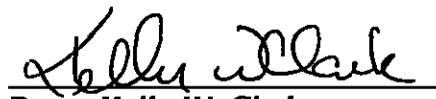
Evergreen Trails, Inc


By Kelly W Clark
Vice President, Secretary

Westours Motorcoaches, Inc


By Kelly W Clark
Vice President, Secretary

Westmark Hotels of Canada, Ltd.

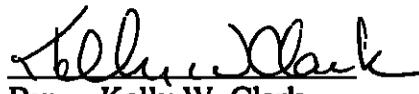

By Kelly W Clark
Vice President, Assistant Secretary

Horizon Coach Lines, Ltd.


By Kelly W. Clark
Vice President, Secretary

ENTITY TO BE CONTROLLED BY HAL

Discover Alaska Tours, Inc


By Kelly W Clark
Secretary

Applicants' Representative

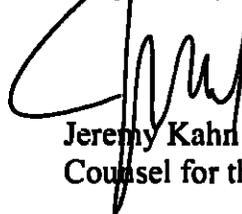
The parties' representative is

Jeremy Kahn, Esq
Kahn and Kahn
1730 Rhode Island Ave , N W , Suite 810
Washington, DC 20036
Telephone (202) 887-0037
Facsimile (202) 833-1219

Conclusion

As provided by 49 CFR §1182 and for the reasons set forth herein, the Surface Transportation Board is requested respectfully to approve this application and authorize the transaction and acquisition of control as described herein

Respectfully,



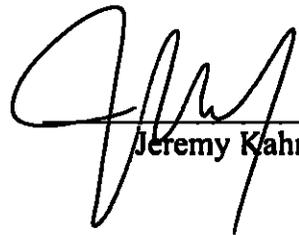
Jeremy Kahn
Counsel for the Parties

Jeremy Kahn, Esq.
Kahn and Kahn
1730 Rhode Island Ave., N W , Suite 810
Washington, DC 20036
Telephone (202) 887-0037
Facsimile (202) 833-1219

Certificate of Service

I hereby certify that as required by 49 CFR §1182.3, I have served a copy of the foregoing Application by mailing a copy thereof, via First Class Mail, postage prepaid on (1) the 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, (3) the U S Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, S E , Washington, DC 20590; and (4) the state regulatory agency for the state in which one or more of the involved carriers hold intrastate authority, namely the Washington Utilities and Transportation Commission, P.O Box 47250, Olympia, WA 98504-7250.

Dated at Washington, DC, this 20th day of February, 2008.



Jeremy Kahn