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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**IN THE MATTER OF
TERRY W. FISCHER AND TKRG HOLDINGS INC.
-- ACQUISITION OF CONTROL --
ROYAL COACH TOURS
DOCKET NO. MCF 21109**

**VERIFIED APPLICATION UNDER 49 U.S.C. § 14303(a)
FOR APPROVAL OF THE ACQUISITION OF CONTROL OF
ROYAL COACH TOURS
BY TERRY W. FISCHER AND TKRG HOLDINGS INC.**

Terry W. Fischer ("Fischer") and TKRG Holdings Inc. ("TKRG," and collectively with Fischer, "Applicants") respectfully submit this verified application under 49 U.S.C. § 14303 and Surface Transportation Board (the "STB" or "Board") regulations at 49 C.F.R. Part 1182 (this "Application") for approval of the contemplated transaction more fully described herein (the "Transaction"). The Transaction entails the acquisition of control by Applicants of the regulated interstate passenger motor carrier, Royal Coach Tours ("Royal"), by acquiring control of all the outstanding equity interests from the persons that are the equity interest holders of Royal.

**FILED
July 21, 2023
SURFACE
TRANSPORTATION BOARD**

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I. Parties of the Transaction, Pertinent Operating Authorities, and USDOT Safety Fitness Ratings (49 C.F.R. § 1182.2(a)(1) and (2)).¹

A. Purchaser: Applicants. Fischer is an individual resident of the state of California, and maintains his headquarters at 1931 N. Batavia Street, Orange, CA 92865. Fischer directly owns and controls all of the equity and voting interest in an interstate passenger motor carrier (the “Regulated Carrier”) (described and defined below as “TCS”). TKRG is a Delaware limited liability company, indirectly controlled by Fischer, and maintains its headquarters at 1931 N. Batavia Street, Orange, CA 92865. As of the closing of the Transaction, the outstanding shares of TKRG will be held by RCTB, LLC, a Delaware limited liability company (“RCTB”) that maintains its headquarters at 1931 N. Batavia Street, Orange, CA 92865. As of the closing of the Transaction, the outstanding membership interests in RCBT will be held by TFKF 50 Holdings LLC (“TFKF”) (67.5%), Blue Fin Equity Partners LLP (“Blue Fin”) (22.5%), and GHSG, LLC (“GHSG”) (10%). As of the closing of the Transaction, the outstanding membership interests in TFKF will be held by Fischer (51%) and Fischer’s brother, Kevin Fischer (49%). As of the closing of the Transaction, the partnership interests in Blue Fin will be controlled by Remi Poissant and Jane Poissant, husband and wife. As of the closing of the Transaction, the membership interest in GHSG will be owned and controlled by Greg Gallup, an individual and current management employee of Royal.

The authorized signatures of and on behalf Applicants are set forth in the Verification of Applicants in section XIII.A of this Application. Neither Applicant is a federally-regulated passenger motor carrier, and neither Applicant has a U.S. Department of Transportation Number (“USDOT No.”), Federal Motor Carrier Safety Administration Docket Number

¹ This Application is organized to follow the elements set forth in the applicable rules of the Board at 49 C.F.R. § 1182.2(a).

(“FMCSA Docket No.”)², or a safety rating assigned by U.S. Department of Transportation (“Safety Rating”). Other than Fischer, none of the entities or persons having direct or indirect interests in TKRG control any federally regulated interstate passenger motor carrier. None of those entities or persons has a USDOT No., FMCSA Docket No., or Safety Rating.³

B. Regulated Carrier. As stated above, Fischer directly owns 100% of the outstanding stock and controls Transportation Charter Services, Inc., (“TCS”). The organizational structure of TCS is depicted on Exhibit A attached hereto. TCS is a California corporation that provides interstate and intrastate charter motor coach transportation services to the traveling public in the area of Southern California (Los Angeles, Orange County, and San Diego) and the Canadian Rockies Area of Alberta, Canada. TCS’s charter motor coach operations in Southern California provide charter bus services for third-party tour operators; private party charters for activities and events such as group travel, weddings, athletic and entertainment events; and school groups for educational and recreational activities. TCS’s operations in Canadian Rockies Area are primarily focused on charter bus services for third-party tour operators and private group outings in that area, but TCS also provides general charter services for events such as weddings and meetings, etc. In addition, TCS provides a limited contractual employee shuttle service for employers in support of the on-going construction projects at the San Diego International Airport. The business address, along with USDOT Number, FMCSA Docket No. and Safety Rating assigned to TCS are set forth on the Summary Table attached hereto as Exhibit B (the “Summary Table”). The approximate number and types of vehicles utilized by TCS, along

² An FMCSA Docket No. is the reference number assigned to a motor carrier by Federal Motor Carrier Safety Administration for interstate motor carrier authority.

³ Certain of the motor carriers have not been rated by FMCSA or USDOT. If a carrier has not been rated, the Safety Rating is denoted as None or No Safety Rating.

with its approximate number of drivers are also set forth on the Summary Table.

C. Sellers. Daniel K. Smith and Sandra S. Allen (the “Individual Sellers”) are the current shareholders of Royal, a California corporation. Immediately prior to the sale of Royal, the Individual Sellers will effect a reorganization of Royal such that upon completion of the reorganization Royal will be converted to a California limited liability company wholly owned by a to-be-formed California corporation (“New Holdco”) which will be wholly owned by the Individual Sellers. The Individual Sellers and New Holdco are collectively referred to as “Sellers”. The Individual Sellers are individual residents of the state of California and maintain their headquarters at 630 Stockton Avenue, San Jose, CA 95126. The New Holdco will also maintain its headquarters at 630 Stockton Avenue, San Jose, CA 95126. No Seller is a carrier, and no Seller has a USDOT No., an FMCSA Docket No., or a Safety Rating. No Seller controls any federally regulated passenger motor carrier other than Royal. The authorized signatures of the Individual Sellers are set forth in the Verification of Sellers in section XIII.B of this Application.

D. Royal. Royal is headquartered at 630 Stockton Avenue, San Jose, CA 95126. The USDOT Number assigned to Royal is 164777. Royal holds interstate carrier operating authority under FMCSA Docket No. MC-142846, and Royal has a Safety Rating of “Satisfactory.” Royal also holds intrastate charter-party operating authority issued by the California Public Utilities Commission, identified as Cert. No. PSG0000108-TCP A., and intrastate charter bus authority issued by the Nevada Transportation Authority, identified as CPCN 2141 Sub 1. Royal is providing transportation services in the following areas of service (the “Royal Service Offerings”):

- (i) Charter. Royal provides motor coach charter transportation services to the traveling public for activities and events such as weddings, group excursions,

corporate meetings, athletic, recreational and entertainment events, and airport transfers, and for tours conducted by third-party tour operators, all from its terminal facilities located in San Jose, CA (the “Bay Area”), Las Vegas, NV, and Phoenix, AZ.

(ii) Employee Transportation. Royal provides a limited amount of employee commuter shuttle (intrastate) services for employers in the Bay Area.

(iii) Equipment and Drivers. In providing the Royal Service Offerings, Royal utilizes approximately 73 motor coaches and 1 mini-bus, and approximately 115 drivers.⁴

(iv) No Overlap. The Royal Service Offerings do not overlap with the geographic areas of the service offerings of TCS.

II. Description of the Transaction (49 C.F.R. § 1182.2(a)(3)).

The event triggering STB jurisdiction over the Transaction is the acquisition of control of Royal by TKRG, the effect of which will be to place Royal under the control of TKRG and Fischer. As such, the STB’s jurisdiction is invoked by 49 U.S.C. § 14303(a)(5), as the Transaction will entail the “acquisition of control of a carrier [*i.e.*, Royal] by a person that is not a carrier but that controls any number of carriers [*i.e.*, Fischer].” Exhibit C attached hereto depicts the proforma organizational structure of Royal following the closing of the Transaction. As part of the reorganization of Royal which will be consummated immediately prior to the Transaction, Royal will become a wholly owned subsidiary of New Holdco,

⁴ The numbers of vehicles and drivers reflected in the Company Snapshot of the Federal Motor Carrier Safety Administration’s Safety and Fitness Electronic Records (SAFER) System is dependent on information submitted by the applicable motor carriers on form MCS-150 (Motor Carrier Identification Report), which is required to be categorically updated biennially and only required to reflect vehicles subject to Uniform Carrier Registration. However, carriers can include intrastate vehicles and drivers that are not required to be included. Accordingly, the number of vehicles and drivers reflected in the Company Snapshot may not be the same as the number of vehicles and drivers in use by a carrier at a given point in time.

however, the ultimate control and ownership of Royal will remain unchanged as a result of the reorganization. The change of control of Royal will not occur until the closing of the Transaction.

III. Other Federally Regulated Carrier Affiliates (49 C.F.R. § 1182.2(a)(4)).

Other than the Regulated Carrier (TCS) and Royal as described above, there are no other carriers with regulated interstate operations involved in this Application.

IV. Jurisdictional Statement – Revenues (49 C.F.R. § 1182.2(a)(5)).

The STB has jurisdiction over this matter under 49 U.S.C. § 14303(g), because the annual aggregate gross operating revenues of TCS (controlled by Fischer) and Royal exceeded \$2 million during the 12-month period immediately preceding the filing of this Application.

V. Environmental Impact (49 C.F.R. § 1182.2(a)(6)).

Approval of this Application and consummation of the Transaction will not have a significant effect on the quality of the human environment and the conservation of energy resources. The Transaction is merely a change in control of a carrier that already provides charter services. No environmental impact is expected.⁵

VI. Public Interest Considerations (49 C.F.R. § 1182.2(a)(7)).

The Board “shall approve and authorize a transaction” when it finds that the transaction is “consistent with the public interest.” 49 U.S.C. § 14303(b). The statutory factors the Board must consider are the “adequacy of transportation to the public,” “total fixed charges that result...” and the “interest of carrier employees affected...” *Id.*

⁵ The Board has found similar transactions to be categorically excluded from environmental review under 49 C.F.R. § 1105.6(c). See, e.g., Van Pool Transportation LLC – Acquisition of Control – Royal Coach Lines, Inc., STB Docket No. MCF 21107, at 4 (STB served June 14, 2023). Section 1105.6(c) categorically excludes Section 14303 transactions that do not implicate operational changes that exceed certain specified thresholds.

A. Adequacy of Transportation Services. The Transaction will not have a material, detrimental impact on the adequacy of transportation services available for the public. Applicant intends that the services of Royal currently available to the public will continue to be provided by Royal under the same name and from the same locations used to provide such services prior to the Transaction. Royal will continue to operate, but going forward, will continue to be operated within the holdings of Applicants, persons thoroughly experienced in passenger transportation operations.

The addition of Royal to the holdings of Applicants is consistent with the practices within the passenger motor carrier industry of strong, well-managed transportation organizations adapting their corporate structure to operate several different passenger carriers within similar services markets, but in different geographic areas. The Transaction will bring Royal under the control of Fischer, who is experienced in the same market segments served by Royal, being private charter transportation and employee shuttle operations. Such market segments have their own service characteristics, and the Transaction, combined with the passenger carrier management capacity of Applicants, is expected to result in improved operating efficiencies, increased equipment utilization rates, and cost savings derived from economies of scale, all of which will help to ensure the provision of adequate service to the public.

B. Fixed Charges. The Transaction will increase fixed charges, in the form of interest expense, because funds will be borrowed by TKRG to assist in the financing of the Transaction. However, such an increase will not impact the provision of transportation services to the public. The Board has approved transactions that use debt financing in the past, despite some increase to interest expense. See, *e.g.*, *Variant Equity I, LP, and Project Kenwood Acquisition, LLC – Acquisition of Control – Coach USA Administration, Inc., and*

Coach USA, Inc., STB Docket No. MCF 21084, at 4 (served February 15, 2019), and *Sureride Charter Inc. – Acquisition of Control – McClintock Enterprises, Inc., D/B/A Goldfield State & Co.*, STB Docket No. MCF 21077, at 3 (served November 2, 2017).

C. Employee Interests. Applicants intend to continue the existing operations of Royal and as such, the Transaction will not materially impact employees or labor conditions. Although the Individual Sellers will be retiring from Royal and the passenger motor carrier industry, Applicants do not anticipate any measurable reduction in force or changes in compensation levels and/or benefits at Royal.

D. Competition and the Public Interest. The law requires the Board 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 entity. In making such analysis, the Board (as did its predecessor, the Interstate Commerce Commission) has consistently found that proposed “common control” arrangements (however accomplished) are inherently not anti-competitive. In large measure, that conclusion rests on the finding that because of the ease of entry into the market, the passenger motor carrier 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).

On the rare occasions in recent years in which the Board 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 approved applications 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 reduction of the benefits of healthy competition. The Board's decisions include *Kelsian USA Inc. – Acquisition of Control – AAAHI Topco Corporation*, STB Docket No. MCF 21106 (served Apr. 14, 2023); and *Transdev Group, S.A. – Acquisition of Control – First Transit Topco, Inc.*, STB Docket No. MCF 21103 (served Jan. 5, 2023); *National Express LLC – Acquisition of Control – Premier Transportation, LLC*; STB Docket No. MCF 21091 (served March 12, 2020); and *Winthrop Sargent, John Cogliano, and Paul Fuerst – Acquisition of Control – Plymouth and Brockton Street Railway Company, Brush Hill Transportation Company, and McGinn Bus Company, Inc.*, STB Docket No. MCF 21089, (served January 3, 2020).

As previously mentioned, the Royal Service Offerings consist primarily of private motor coach charter transportation services operated from Royal's facilities in the Bay Area, Las Vegas and Phoenix, with limited employee commuter services in the Bay Area. The charter bus transportation market is very competitive in each of those geographic areas, with several local, regional and national providers such as (i) in the Bay Area – Bauer's Intelligent Transportation, Inview Travel, Lux Bus America, Phoenix Transportation, Professional Charter Services, Compass Transportation, Quality Assurance Travel, Sanmo International, and Umbrella Global; (ii) in Las Vegas – Arrow Stage Lines, Canyon Coach Lines, Champion Charter Bus, Holiday Motor Coach, TLC Luxury Transportation, and Windstar Lines; and (iii) in Phoenix – All Aboard America, Arizona Bus Company, Arrow Stage Lines, Holiday Motor Coach, and Windstar Lines. In addition, there are a significant number of passenger charter transportation brokers that provide transportation arrangement in the geographic areas served by Royal. In regard to employee commuter services in the Bay Area, there are a number of carriers that compete with Royal, including Bauer's Intelligent Transportation, Compass Transportation, Lux Bus America, and WeDriveU.

All charter service providers, including Royal, also compete with other modes of passenger transportation, including public transportation, rail, low-cost airlines, carpool networks, private vehicle rental, and passenger transportation network companies.

The Royal Service Offerings are geographically dispersed from the service areas of TCS. In light of the foregoing, it is clear that the impact of the Transaction on the regulated motor carrier industry will be minimal at most and that neither competition nor the public interest will be adversely affected.

Board approval of this Application will allow the acquisition of control of Royal to be accomplished without the approval of state regulatory authorities, thus relieving the parties of the Transaction from potentially burdensome regulatory requirements. *See* 49 U.S.C. § 14303(f).⁶

VII. Safety Fitness Certification (49 C.F.R. § 1182.2(a)(8)).

Applicants certify that the Safety Rating for the Regulated Carrier, TCS, is as set forth on the Summary Table. Sellers certify that the Safety Rating of Royal is as set forth in section I.D of this Application.

VIII. Insurance Certification (49 C.F.R. § 1182.2(a)(9)).

Sellers certify that Royal currently has the requisite insurance coverage under 49 U.S.C. § 13906. Applicants certify that Royal immediately following the closing of the Transaction will have the requisite insurance coverage under 49 U.S.C. § 13906.

⁶ 49 U.S.C. § 14303(f) provides that “A carrier or corporation participating in or resulting from a transaction approved by the [Surface Transportation] Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.”

IX. Mexico Certification (49 C.F.R. § 1182.2(a)(10)).

A. Applicants. Applicants certify that neither TKRG, Fischer nor any person controlling them is domiciled in Mexico, nor owned or controlled by persons of that country.

B. Royal. The Individual Sellers certify that Royal is neither domiciled in Mexico, nor owned or controlled by persons of that country.

X. No Individuals Holding Operating Authority (49 C.F.R. § 1182.2(a)(11)).

The Transaction does not involve the transfer of operating authority to an individual who will hold the authority in his or her name.

XI. Exempt Transaction under Federal Premerger Notification Laws.

Pursuant to 15 U.S.C. § 18a(c)(6), this Application and copies of all other information and documentary material filed with the Board in connection with the Transaction are being served upon the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice in keeping with the Transaction's status under the regulated-industry provisions of that statute.

XII. Conclusion.

Applicants submit that the Transaction is consistent with the public interest. As provided by 49 C.F.R. Part 1182 and for the reasons set forth herein, the Board is respectfully requested to approve this Application and authorize the Transaction and the acquisition of control of Royal as described herein.

XIII. Verification.

The verifications of Applicants and the Individual Sellers are as follow:

[Remainder of Page Intentionally Blank – Verification and Signature Pages Follow]

A. Verification of Applicants. The undersigned verify under penalty of perjury under the laws of the United States of America, that all information supplied by such person on behalf of and limited to Applicants in connection with this Application is true and correct. Further, the undersigned are qualified and authorized to submit this verification and file this Application. The undersigned further certify under penalty of perjury under the laws of the United States, that the undersigned know that willful misrepresentations 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 under 18 U.S.C. § 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

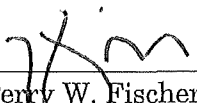
“Applicants”



Terry W. Fischer

Dated: July 20, 2023

TKRG Holdings Inc.

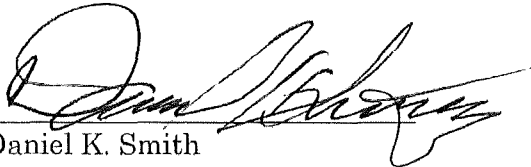
By: 

Terry W. Fischer
President

B. Verification of Sellers. The undersigned verify under penalty of perjury under the laws of the United States of America, that all information supplied by each of them on behalf of and limited to Royal and Sellers, as applicable, in connection with this Application is true and correct. Further, the undersigned are qualified and authorized to submit this verification and authorize the filing of this Application. The undersigned further certify under penalty of perjury under the laws of the United States, that each knows that willful misrepresentations 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 under 18 U.S.C. § 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

"Individual Sellers"

Dated: July 20, 2023


Daniel K. Smith

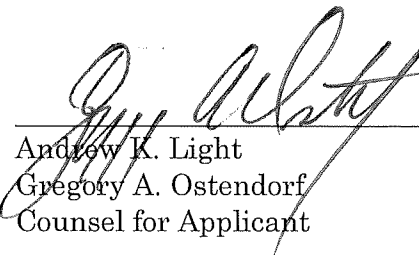

Sandra S. Allen

XIV. Applicants' Legal Counsel.

"Applicant"

Andrew K. Light
Gregory A. Ostendorf
Scopelitis, Garvin, Light, Hanson & Feary, P.C.
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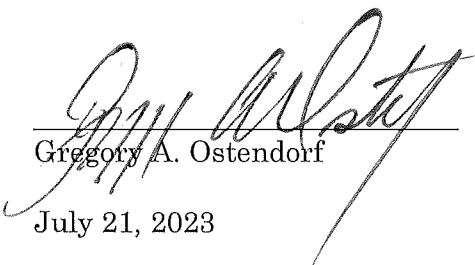
Respectfully,



Andrew K. Light
Gregory A. Ostendorf
Counsel for Applicant

Certificate of Service

I hereby certify that as required by 49 C.F.R. § 1182.3, I have served a copy of the foregoing Application by mailing a copy thereof, via U.S. first-class mail on the U.S. Department of Transportation, Chief Licensing and Insurance Division, 1200 New Jersey Avenue, S.E., Mail Stop W65-331, Washington, DC 20590; and the state regulatory agencies for the states in which intrastate operations are affected. I further certify that as required by 15 U.S.C. § 18a(c)(6), I have also served a copy of the foregoing Application, and copies of all other information and documentary material filed with the Surface Transportation Board in connection with the Transaction, via email on the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice.

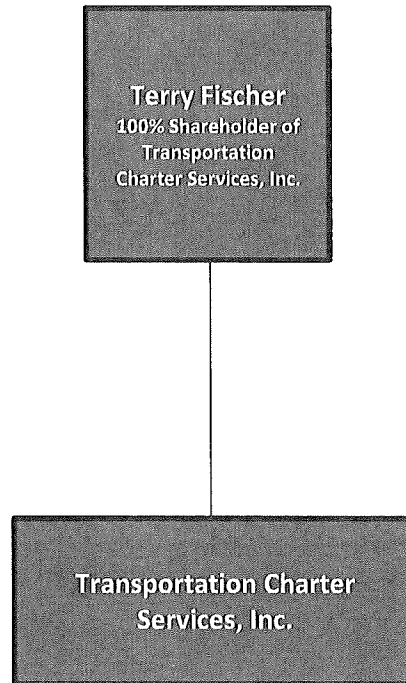


Gregory A. Ostendorf

July 21, 2023

Exhibit A

Organizational Structure of the Regulated Carrier (Transportation Charter Services, Inc.)



<u>Exhibit B</u> <u>Summary Table</u>				
<u>Entity Names</u>	<u>USDOT No.</u>	<u>FMCSA Docket No.</u>	<u>USDOT Safety Rating</u>	<u>Vehicles and Drivers⁷</u>
Transportation Charter Services, Inc. 1931 N. Batavia Street Orange, CA 92865	385886	MC-229775	Satisfactory	Motor Coaches – 85 School Buses (16+) – 4 Mini-Buses – 3 Van (9-15) – 2 Drivers – 119

⁷ The numbers of vehicles and drivers reflected in the Company Snapshot of the Federal Motor Carrier Safety Administration's Safety and Fitness Electronic Records (SAFER) System is dependent on information submitted by the applicable motor carriers on form MCS-150 (Motor Carrier Identification Report), which is required to be categorically updated biennially and only required to reflect vehicles subject to Uniform Carrier Registration. However, carriers can include intrastate vehicles and drivers that are not required to be included. Accordingly, the number of vehicles and drivers reflected in the Company Snapshot may not be the same as the number of vehicles and drivers in use by a carrier at a given point in time.

Exhibit C

Organizational Structure of the Royal Coach Tours (Proforma Post Transaction Closing)

