

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
October 4, 2019
Part of
Public Record

IN THE MATTER OF

AAAHI REGIONAL ACQUISITION LLC

- ACQUISITION OF CONTROL -

FIRST CLASS TOURS, INC. AND SIERRA STAGE COACHES, INC.

STB DOCKET NO. MCF-21087

**VERIFIED APPLICATION UNDER 49 U.S.C. § 14303(a)
FOR APPROVAL OF THE ACQUISITION OF CONTROL OF
FIRST CLASS TOURS, INC. AND SIERRA STAGE COACHES, INC. BY
AAAHI REGIONAL ACQUISITION LLC**

AAAHI Regional Acquisition LLC, a motor carrier ("Purchaser") respectfully submits this application under 49 U.S.C. § 14303(a) and Surface Transportation Board (the "Board") regulations at 49 C.F.R. Part 1182 for approval of the transactions more fully described herein (the "Contemplated Transaction"). The result of the Contemplated Transaction will be the direct acquisition of control by Purchaser of the interstate and intrastate passenger motor carrier assets and operations of both First Class Tours, Inc. ("First Class"), and Sierra Stage Coaches, Inc. ("Sierra"). Although not arguably subject to Board jurisdiction, the Contemplated Transaction will also result in the direct acquisition of the rolling stock assets of RJR Leasing LLC ("RJR"), which has some common ownership with First Class.

**FEE RECEIVED
October 4, 2019
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**FILED
October 4, 2019
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I. Parties to the Contemplated Transaction, Pertinent Operating Authorities, and USDOT Safety Fitness Ratings.

A. Purchaser. Purchaser is a motor carrier organized under the laws of the state of Delaware and headquartered at 1726 Cole Boulevard Suite 220, Lakewood, CO 80401. The USDOT Number assigned to Purchaser is 3140195. Purchaser does not have a USDOT Safety Rating. For purposes of its interstate passenger operations, Purchaser holds interstate carrier operating authority under FMCSA Docket No. MC-98597. Purchaser obtained interstate operating authority on July 31, 2018, but as of yet has neither conducted interstate nor intrastate operations. Purchaser is indirectly controlled by Tensile Capital GP LLC, a Delaware limited liability company (“Tensile”). Tensile is not a motor carrier; however, Tensile directly or indirectly controls those motor carriers set forth in Section I.C. below.

B. Control of Purchaser. Purchaser is wholly owned by All Aboard America! Holdings, Inc., a corporation and non-carrier holding company (“All Aboard”). All Aboard is wholly owned by AAAHI Acquisition Corporation, a corporation and non-carrier holding company (“Acquisition”), which in turn is wholly owned by AAAHI Intermediate Holdings LLC, a limited liability company and non-carrier holding company (“Intermediate”). Intermediate is wholly owned by AAAHI TopCo Corporation, a corporation and non-carrier holding company (“TopCo”), which in turn is wholly owned by AAAHI Holdings LLC, a limited liability company and non-carrier holding company (“Holdings”). Holdings is controlled by Tensile Capital Partners Master Fund LP, a limited partnership and non-carrier holding company (“Partners”), which in turn is controlled by its general partner, Tensile. Neither Tensile, Partners, Holdings, TopCo, Intermediate, Acquisition nor All Aboard has motor carrier authority, a USDOT Number, or a USDOT Safety Rating.

C. Purchaser Affiliated Carriers. In addition to Purchaser, Tensile indirectly controls the following passenger motor carriers that hold interstate carrier authority (the

“Purchaser Affiliated Carriers”): Ace Express Coaches, LLC (“Ace”), Lux Bus America Co. (“Lux Bus”), Hotard Coaches, Inc. (“Hotard”), Industrial Bus Lines, Inc. (“Industrial”), Sureride Charter Inc. (“Sureride”), and now inactive motor carrier McClintock Enterprises Inc. (“McClintock”). Descriptions of the Purchaser Affiliated Carriers are as follows:

1. Ace. Ace is motor carrier providing regional charter, contract and casino passenger charter services in the state of Colorado and surrounding areas. The USDOT number assigned to Ace is 2589674, and Ace has a “Satisfactory” USDOT Safety Rating. For purposes of its interstate passenger operations, Ace holds interstate carrier operating authority under FMCSA Docket No. MC-908184. Ace’s principal place of business is located at 14000 W. 44th Street, Golden, CO 80403. In providing its services, Ace utilizes approximately 52 vehicles and 110 drivers.

2. Hotard. Hotard is a motor carrier providing local and regional passenger charter services primarily within the states of Louisiana and Mississippi. The USDOT Number assigned to Hotard is 156451, and Hotard has a “Satisfactory” USDOT Safety Rating. For purposes of its interstate passenger operations, Hotard holds interstate carrier operating authority under FMCSA Docket No. MC-143881. Hotard’s principal place of business is located at 2838 Touro Street, New Orleans, Louisiana 70122. In providing its services, Hotard utilizes approximately 242 vehicles and 257 drivers.

3. Industrial. Industrial, doing business as All Aboard America, is a motor carrier providing local and regional passenger charter services generally in the states of Arizona, New Mexico and Texas. The USDOT Number assigned to Industrial is 27402, and Industrial has a “Satisfactory” USDOT Safety Rating. For purposes of its interstate passenger operations, Industrial holds interstate carrier operating authority under FMCSA Docket No. MC-133171. Industrial’s principal

place of business is located at 230 S. Country Club Drive, Mesa, AZ 85210. In providing its services, Industrial utilizes approximately 97 vehicles and 127 drivers.

4. Lux Bus. Lux Bus is a motor carrier providing local and regional passenger charter services primarily in the states of California and Nevada. The USDOT Number assigned to Lux Bus is 1125439, and Lux Bus has a “Satisfactory” USDOT Safety Rating. For purposes of its interstate passenger operations, Lux Bus holds interstate carrier operating authority under FMCSA Docket No. MC-459355. The principal place of business of Lux Bus is 851 E. Cerritos Avenue, Anaheim, CA 92805. In providing its services, Lux Bus utilizes approximately 216 vehicles and 289 drivers.

5. Sureride. Sureride, doing business as Sun Diego Charter Company and Sun Express Charter Co., is a motor carrier providing local and regional passenger charter, tour and contract shuttle services in south California and surrounding areas. The USDOT Number assigned to Sureride is 701846, and Sureride has a “Satisfactory” USDOT Safety Rating. For purposes of its interstate passenger operations, Sureride holds interstate carrier operating authority under FMCSA Docket No. MC-324772. Sureride’s principal place of business is located at 522 W. 8th Street, National City, CA 91950. In providing its services, Sureride utilizes approximately 109 vehicles and 133 drivers.

6. McClintock. McClintock, doing business as Goldfield Stage & Co., formerly provided local and regional passenger charter, tour and contract shuttle services in south California and surrounding areas. The USDOT Number 291979 and FMCSA Docket No. MC-191442 assigned to McClintock are both inactive.

7. Summary Table. Attached hereto as Schedule A is a summary table setting forth the USDOT Numbers, FMCSA Docket Numbers, and USDOT Safety Rating, as applicable, of Purchaser and the Purchaser Affiliated Carriers.

D. Sellers. All of the issued and outstanding equity interests in First Class and Sierra are collectively owned and held by Reta Jean Rogers (“Jean Rogers”), Jeffrey Scott Rogers (“Jeff Rogers”), and Gregory Bryan Rogers (“Greg Rogers,” and together with Jean Rogers and Jeff Rogers, the “Sellers”), each an individual and resident of the state of Texas. A summary description of each of the Sellers is as follows:

1. Jean Rogers. Jean Rogers is an individual resident of the state of Texas and a citizen of the United States of America (the “U.S.”), having an address of 20754 Lavone Drive, Porter, TX 77365. Jean Rogers has a 75.94% equity ownership interest in First Class. Other than First Class, Jean Rogers does not have any direct or indirect ownership interest in any other interstate passenger motor carrier.

2. Jeff Rogers. Jeff Rogers is an individual resident of the state of Texas and a citizen of the U.S., having an address of 20762 Lavone Drive, Porter, TX 77365. Jeff Rogers has a 12.03% equity ownership interest in First Class. Other than First Class, Jeff Rogers does not have any direct or indirect ownership interest in any other interstate passenger motor carrier.

3. Greg Rogers. Greg Rogers is an individual resident of the state of Texas and a citizen of the U.S., having an address of 818 Castle Hill Trail, Houston, TX 77339. Greg Rogers has a 12.03% equity ownership interest in First Class. He also has a 100% equity ownership interest in Sierra. Other than First Class and Sierra, Greg Rogers does not have any direct or indirect ownership interest in any other interstate passenger motor carrier.

E. First Class and Sierra. A description of the motor carriers whose operations will be acquired in the Contemplated Transaction is as follows:

1. First Class. First Class is a Texas corporation with its headquarters located at 12703 Eastex Freeway, Houston, TX 77039, which location also includes full-service maintenance facilities and a passenger terminal. First Class also has a terminal located at 310 FM 1960 East, Houston, TX 77073. First Class provides interstate charter service between Texas and points throughout the United States. First Class also provides Texas intrastate charter service and intrastate weekday park-and-ride commuter services between The Woodlands, Texas, and points in Houston, Texas, under a contract with The Woodlands Township.

The terminals of First Class are used primarily in the operation of daily and overnight individual passenger roundtrips (“line runs”) to various casinos located in Louisiana. In this regard, First Class provides transportation to and from Louisiana casinos for pre-formed / charter groups. The USDOT number assigned to First Class is 774995, and First Class has a “Satisfactory” USDOT Safety Rating. For purposes of its interstate passenger operations, First Class holds interstate carrier operating authority under FMCSA Docket No. MC-346969. First Class also operates pursuant to intrastate authority issued by the Texas Department of Motor Vehicles under Certificate No. 005803567C, a non-gaming supplier permit issued by the Louisiana State Police under Permit No. P086502227, certification from the Louisiana State Police as a non-gaming manufacturer and supplier under Certification No. I036510998, a tribal license issued by the Coushatta Tribe of Louisiana under Certificate No. 1608, and a gaming license issued by the Tunica-Biloxi Tribal Gaming Commission under License No. N000171. In providing its services, First Class utilizes approximately 66 vehicles and 99 drivers.

2. Sierra. Sierra is a Texas corporation with its headquarters located at 1502 Galveston Street, South Houston, TX 77587, which location also includes its vehicle maintenance facilities. Sierra provides interstate and intrastate passenger group charter motor coach and shuttle services in the Houston area and throughout the United States. Sierra also provides weekday park-and-ride commuter services between The Woodlands, Texas, and points in Houston, Texas, as a subcontractor of First Class. The USDOT number assigned to Sierra is 229351, and Sierra has a “Satisfactory” USDOT Safety Rating. For purposes of its interstate passenger operations, Sierra holds interstate carrier operating authority under FMCSA Docket No. MC-166321. Sierra also operates pursuant to intrastate authority issued by the Texas Department of Motor Vehicles under Certificate No. 005827618C. In providing its services, Sierra utilizes approximately 27 vehicles and 25 drivers.

3. RJR. As previously noted, the Contemplated Transaction will also result in the acquisition of the rolling stock assets of RJR, which has some common ownership with First Class. RJR’s headquarters are located at 12703 Eastex Freeway, Houston, TX 77039. RJR owns and leases vehicles to First Class and Sierra and does not operate any motor coach or other ground transportation service. RJR is collectively owned by Jean Rogers and the Estate of Lanny Gerald Rogers.

II. Description of Contemplated Transaction.

The event triggering Board jurisdiction is the proposed acquisition of the assets of First Class and Sierra by the Purchaser. As such, the Board’s jurisdiction is invoked pursuant to 49 U.S.C. § 14303(a)(3), as the Contemplated Transaction involves “[a]cquisition of control of a carrier [*i.e.*, First Class and Sierra] by any number of carriers [*i.e.*, the Purchaser].” We note that 49 U.S.C. § 14303(f) states “a carrier or a corporation participating in or resulting

from a transaction approved by the Board under this Section ... 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.” Thus, the granting of this application by the Board will avoid the need for state or local approval.

III. Federally Regulated Carrier Affiliates.

Other than Purchaser, the Purchaser Affiliated Carriers, First Class and Sierra, there are no other carriers with regulated interstate operations involved in this Application.

IV. Jurisdictional Statement – Revenues.

The Board has jurisdiction over this matter under 49 U.S.C. § 14303(g), because the annual aggregate gross operating revenues of the Purchaser Affiliated Carriers, First Class, and Sierra exceed \$2 million during the 12-month period immediately preceding the filing of this application.

V. Environmental Impact.

Approval of this application and consummation of the Contemplated Transaction are not expected to have a significant effect on the quality of the human environment and the conservation of energy resources.

VI. Public Interest Considerations.

A. Adequacy of Transportation Services. The Contemplated Transaction will not have a material, detrimental impact on the adequacy of transportation services available for the public. The Purchaser anticipates that services to the public will be improved by using the business and financial management skills of Tensile, as well as its capital, to make the operations more efficient, thereby ensuring the continued availability of adequate passenger transportation service for the public. Moreover, the continued use of the assets and work force of the Sellers will help maintain a strong competitive bus presence in the eastern Texas

area. In this regard, the Contemplated Transaction includes the right to use the “First Class” and “Sierra” names post-closing. Due to these strong brand names, the Purchaser may also seek approval from the FMCSA to change its name to more closely resemble First Class and/or Sierra.

B. Fixed Charges. There are no significant fixed charges associated with the Contemplated Transaction.

C. Employee Interests. The Contemplated Transaction will not have material impact on employees or labor conditions. It is the current intention of the Purchaser to offer employment to the vast majority of the current employees of First Class and Sierra. The Purchaser does not anticipate a measurable reduction in force or changes in compensation levels and/or benefits, although staffing redundancies could potentially result in limited downsizing of back-office and/or managerial level personnel.

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 its 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 as a result of ease of entry into the market, the passenger motor carrier industry is characterized by healthy intra-modal competition as well as healthy competition between 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 those 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 assets of a bus carrier by any number of motor carriers, it has consistently approved

applications of this sort, finding that acquisitions that contemplate the single control of multiple passenger carriers can result in better overall service for the public without any lessening of the benefits of healthy competition. Its decisions include *National Express LLC – Acquisition of Control – Free Enterprise System/Royal, LLC*, Board Docket No. MC-F-21085 (served March 29, 2019); *All Aboard Holdings, Inc. – Acquisition of Control – Lux Bus America Co.*, Board Docket No. MCF-21082 (served September 21, 2018); *Sureride Charter Inc. – Acquisition of Control – McClintock Enterprises, Inc. D/B/A Goldfield Stage & Company*, Board Docket No. MCF-21077, (served November 2, 2017); and *Silverado Stages, Inc. – Acquisition of Control – Michelangelo Leasing, Inc. and Ryan’s Express Transportation Services, Inc.*, Board Docket No. MCF-21068 (served July 21, 2016).

The marketplace of First Class is primarily comprised of passenger group charter motor coach and shuttle services in the Houston area, including charter transportation to and from Houston and various Louisiana casinos. First Class also provides weekday park-and-ride commuter services between The Woodlands, Texas, and points in Houston, Texas. Competition is quite keen within these markets. The competition within the charter and shuttle services marketplace consists of a large number of competitors, ranging from rather small charter operators to very large corporate charter operations. Providing services directly to the casinos located in Louisiana requires special licensing with the state of Louisiana and Indian Tribal Councils and, to our knowledge, at least two carriers operating from within the Houston area, Western Motorcoaches and Coach USA, have these special permits. Moreover, the distance between Houston and these casinos is short enough that people may elect to drive themselves rather than use a bus service.

The marketplace of Sierra, like First Class, is primarily that of passenger group charter motor coach and shuttle services in the Houston area. In many instances, the marketplace of Sierra is nearly identical to the marketplace of First Class given that Sierra

often operates under subcontract with First Class, including charter transportation between Houston and Louisiana casinos as well as weekday park-and-ride commuter services between The Woodlands, Texas, and Houston. Again, competition is quite keen within these marketplaces.

The Purchaser submits that the consummation of the Contemplated Transaction will provide the availability of the business and financial management skills and additional capital of the Tensile companies to enhance the operations of First Class and Sierra as operated by Purchaser in their respective marketplaces, thereby ensuring the continued availability of adequate passenger transportation service for the public. Additionally, there is little, if any, overlap of the market areas served by First Class and Sierra with those served by the Purchaser Affiliated Carriers. In light of the foregoing, it is clear that the impact of the Contemplated Transaction on the regulated motor carrier industry will be minimal at most and that neither competition nor the public interest will be adversely affected.

Lastly, Board approval of this Application will allow the acquisition of assets of First Class and Sierra to be accomplished without the approval of any state, municipal, or other federal regulatory authorities, thus relieving the parties of the Contemplated Transaction from potentially burdensome regulatory requirements. *See* 49 U.S.C. § 14303(f)¹. However, the Purchaser still intends to file applicable applications with the Texas Department of Motor Vehicles that will be necessary to transfer or rename the First Class and Sierra intrastate authorities.

¹ 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.”

VII. Insurance Certification.

Each of the motor carriers that are subject to FMCSA insurance requirements and are involved in this Application now satisfy, and after Board approval will continue to satisfy, FMCSA requirements relating to adequate security for the public. 49 U.S.C. § 13906. All of the FMCSA-approved passenger carriers, including Purchaser, have a minimum of \$5 million bodily injury and property damage insurance coverage on file with the FMCSA.

VIII. Mexico Certification.

A. Purchaser. The Purchaser certifies that neither it nor any of the Purchaser Affiliated Carriers is domiciled in Mexico, nor are any of such entities owned or controlled by persons of that country.

B. First Class and Sierra. First Class and Sierra each certifies that it is neither domiciled in Mexico, nor owned or controlled by persons of that country.

IX. 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 Contemplated Transaction are being filed with the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice in keeping with the Contemplated Transaction's status under the regulated-industry provisions of that statute.

X. Conclusion.

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 Contemplated Transaction and acquisition of control as described herein.

XI. Verification.

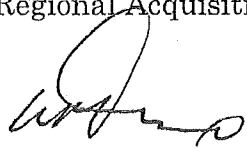
The verifications of the Purchaser, First Class, Sierra, and the Sellers are as follows:

A. Verification of the Purchaser. The undersigned verifies under penalty of perjury under the laws of the United States of America, that all information supplied for this Application by such person on behalf of and limited to the Purchaser and the Purchaser Affiliated Carriers is true and correct. Further, the undersigned is qualified and authorized on behalf of the Purchaser to submit this verification and file this Application. The undersigned further certifies under penalty of perjury under the laws of the United States, that he 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.

“Purchaser”

AAAH Regional Acquisition LLC

Dated: October 3, 2019

By: 

William P. Trimarco
President

B. Verification of First Class, Sierra and the Sellers. Each of the undersigned verifies under penalty of perjury under the laws of the United States of America, that all information supplied for this Application by such person on behalf of and limited to the First Class, Sierra and the Sellers in connection with this application is true and correct. Further, each of the undersigned with respect to First Class and Sierra is qualified and authorized on behalf of First Class and Sierra to submit this verification and authorize the filing of this application. In addition, the undersigned Sellers authorize the filing of this application. Each of the undersigned further certifies under penalty of perjury under the laws of the United States, that he/she 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.

"First Class"

First Class Tours, Inc.

Dated: October 3, 2019

By: 
Jeffrey Scott Rogers
President

"Sierra"

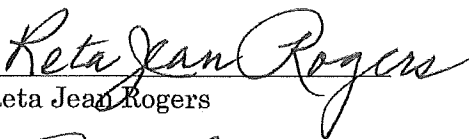
Sierra Stage Coaches, Inc.

Dated: October 3, 2019

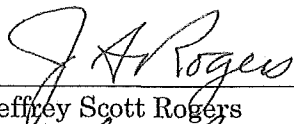
By: 
Gregory Bryan Rogers
President

"Sellers"

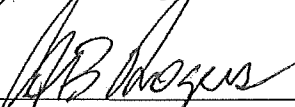
Dated: October 3, 2019


Reta Jean Rogers

Dated: October 3, 2019


Jeffrey Scott Rogers

Dated: October 3, 2019

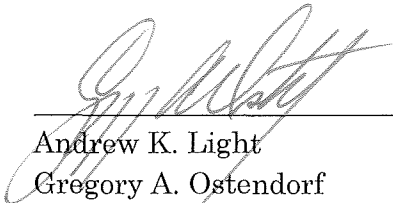

Gregory Bryan Rogers

C. Legal Counsel for Purchaser

AAAHI Regional Acquisition LLC

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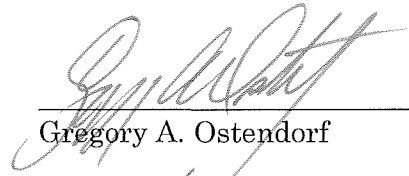
Respectfully,



Andrew K. Light
Gregory A. Ostendorf
Counsel for AAAHI Regional Acquisition LLC

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., Washington, DC 20590; and the state regulatory agency 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 Contemplated Transaction, via U.S. first-class mail on the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice.



Gregory A. Ostendorf
October 4, 2019

<u>Schedule A</u>			
Entity/Carrier	USDOT No.	FMCSA Docket No.	USDOT Safety Rating
<u>The Purchaser:</u>			
AAAHI Regional Acquisition LLC	3140195	MC-098597	None
<u>The Purchaser Affiliated Carriers:</u>			
Ace Express Coaches, LLC	46330	MC-908184	Satisfactory
Hotard Coaches, Inc.	156451	MC-143881	Satisfactory
Industrial Bus Lines, Inc. d/b/a All Aboard America	27402	MC-133171	Satisfactory
Lux Bus America Co.	1125439	MC-459355	Satisfactory
Sureride Charter Inc. d/b/a Sun Diego Charter Company	701746	MC-324772	Satisfactory
McClintock Enterprises Inc. d/b/a Goldfield Stage & Co.	Inactive	Inactive	None