both now and after full Uruguay Round implementation);

- The extent to which intra-APEC trade in these products is also intra-NAFTA trade, and the extent to which trade between APEC and non-APEC countries in these products is concentrated among major U.S. trading partners;
- The products most affected on the import and export sides;
- The percentage of U.S. imports and exports affected in particular sectors such as oilseeds, chemicals, wood, electronics, etc.; and
- A general description of how each other APEC economy would be affected including, to the extent feasible, the percentage of imports and exports of each APEC economy covered by these products, and estimates of calculated duties saved for the United States in other APEC economies and for other APEC economies in the U.S. market.

The Commission intends to provide its report to the USTR on May 31, 1996. As requested, the Commission's staff provided USTR with a list of products with a high percentage of intra-APEC trade on October 13, 1995. Also, the Commission will provide USTR with statistical/technical data, along with a briefing document, by March 27, 1996. The USTR indicated that USTR may classify as confidential portions of the Commission's report.

The ITC is seeking input for its study from all interested parties, particularly in areas where U.S. industry has the greatest interest in liberalization of APEC trade and investment.

Public Hearing

A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on April 3, 1996. All persons will have the right to appear, by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW. Washington, DC 20436, no later than 5:15 p.m., March 18, 1996. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., March 19, 1996. The deadline for filing post-hearing briefs or statements is 5:15 p.m., April 10, 1996. In the event that, as of the close of business on March 18, 1996, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission at 202–205–2000 after March 18, 1996, to determine whether the hearing will be held.

Written Submissions

Interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section § 201.6 of the Commission's *Rules of Practice and Procedure* (19 C.F.R. 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on April 10, 1996. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000.

By order of the Commission.

Dated: February 6, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–2884 Filed 2–8–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Greyhound Lines, Inc.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. (b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States* v. *Greyhound Lines, Inc.*, Civil Action No. 95–1852 (RCL), United States District Court for the District of Columbia, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, D.C. 20530, telephone: (202) 514–2481, and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001. Copies of these materials may be obtained upon request and payment of a copying fee.

Rebecca P. Dick,

Deputy Director, Office of Operations, Antitrust Division.

In The United States District Court for the District of Columbia

In the matter of: United States of America, Plaintiff, vs. Greyhound Lines, Inc., Defendant. Civil Action No. 95–1852 (RCL).

United States' Response to Public Comments

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(d), the United States files this response to public comments on the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

This action began on September 28, 1995, when the United States filed a Complaint charging the defendant, Greyhound Lines, Inc., with violations of the antitrust laws. The Complaint alleges that a standard provision in Greyhound's terminal leases unreasonably restricts the ability of tenant bus companies to compete with Greyhound. The provision, known as the ''25-mile rule,'' prohibits tenants from selling tickets anywhere else within a 25-mile radius of the Greyhound terminal or from accepting the tickets of any other bus company sold in that area. The effect of the rule is to prevent tenant carriers from serving other terminals within that area and from providing service from non-terminal locations such as airports or college campuses. In addition, because it prohibits tenants from accepting the tickets of other carriers sold within 25 miles, the clause restricts interlining.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment, a Competitive Impact Statement, and a stipulation signed by Greyhound for entry of the proposed Final Judgment. The proposed Final Judgment would require Greyhound to remove the 25-mile rule from its terminal leases within 60 days after entry. In addition, the proposed Final Judgment enjoins other conduct by Greyhound that would have the same effect as the 25-mile rule.

The APPA provides for a 60-day public comment period on the proposed Final Judgment. The 60-day comment

period commenced on October 12, 1995 and expired on December 11, 1995. The United States received only one comment on the proposed Final Judgment, from Valley Transit Company, a small bus company operating primarily in Texas. As required by 15 U.S.C. 16(b), Valley Transit's comment is being filed with this response. (Exhibit A).

Valley Transit's comment cites Greyhound tariffs that provide that Greyhound will not honor Valley Transit tickets sold at various Texas locations, in particular a new Valley Transit terminal in Austin. As a result of these tariffs, Valley cannot sell passengers through tickets on routes where Valley connects with Greyhound. For example, a passenger going from Austin to Laredo (Austin-San Antonio on Valley and San Antonio-Laredo on Greyhound) must buy a separate ticket in San Antonio for the second leg of the trip. Valley argues that Greyhound's refusal to honor its tickets makes it difficult for Valley to compete with Greyhound and that it is an attempt to achieve the effects of the 25-mile rule by another means.

The Complaint in this case alleges that the 25-mile rule is an unlawful agreement under Section 1 of the Sherman Act because it unreasonably restricts the ability of tenant bus companies to operate outside the Greyhound terminal or interline with other carriers that operate outside the Greyhound terminal. The conduct at issue in this case involves agreements between Greyhound and its tenants that interfere with the tenant bus companies' ability to interline with other carriers.

As a general rule, companies, even those with large market shares, are free to do business with whomever they chose, and are not normally required to do business with their competitors. The Complaint does not allege that a refusal by Greyhound to interline with or honor tickets issued by another bus company violates the antitrust laws. Indeed, the proposed Final Judgment explicitly states that it does not affect Greyhound's unilateral right to refuse to interline with another carrier. Section IV(C)(8). The Greyhound conduct cited by Valley Transit is thus outside the scope of the Complaint.

Valley Transit also alleges that some of Greyhound's tenant bus companies have also refused to accept Valley tickets based on an agreement with Greyhound. As Valley notes, however, it appears that the proposed Final Judgment, which enjoins Greyhound from conditioning terminal access on an agreement not to honor the tickets of other carriers sold outside the Greyhound terminal (Section IV(B)), fully addresses this concern.

The United States has carefully considered Valley Transit's comment. Nothing in Valley's comment has altered the United States' conclusion that the proposed Final Judgment is in the public interest. The proposed Final Judgment provides all the relief requested in the Complaint against Greyhound, without the substantial expense of a trial. The relief provided in the decree would eliminate the 25-mile rule and prevent Greyhound from achieving the same anticompetitive result by other means. Entry of the proposed Final Judgment is in the public interest.

Dated: December 18, 1995.

Respectfully submitted,

Michael D. Billiel,

DC Bar #394377

Michele B. Felasco,

Attorneys, Antitrust Division, U.S. Department of Justice, 555 Fourth Street, N.W., Washington, D.C. 20001, (202) 307–6666.

December 4, 1995.

Roger W. Fones,

Chief, Transportation and Energy Section, Room 9104, 555 4th Street, N.W., Washington, D.C. 20001

Re: *United States v. Greyhound Lines, Inc., Case No. 1:95CV01852*

Dear Mr. Fones: In announcing the filing of the suit against Greyhound Lines, Inc. (''Greyhound''), the Department of Justice issued a press release in which it was stated that the ''25-mile rule limited other bus companies from competing effectively against Greyhound. It resulted in less bus service and less convenience for consumers.'' Press Release dated September 29, 1995 at 2. The Release further states that:

Greyhound's 25-mile rule made it harder for bus companies to offer full service to other locations near Greyhound terminals, such as competing bus terminals, college campuses, train stations, and airports. It limited competition in the distribution of bus tickets in many cities, making it difficult for any bus tickets to be sold except in a Greyhound terminal.

Finally, it made it harder for smaller bus companies to connect with each other to form alternative routes, in competition with Greyhound, in intercity bus service.

Under the agreement, Greyhound would drop the 25-mile rule from all of its lease agreements and would not impose any similar rule in the future. *The agreement also prevents Greyhound from using leasing in other ways to limit bus companies from selling tickets outside Greyhound terminals.*

Emphasis added.

It is respectfully requested that consideration be given to including a provision in the proposed judgment which would prevent Greyhound from employing tariff filings to achieve the same objective as the 25-mile rule in its Bus Terminal License Agreement. In seeking this modification, I respectfully request that you consider certain actions which Greyhound has taken since signing the consent decree which are causing the identical problems which you identified in your press release of September 28, 1995. If these activities are not covered by the consent decree, they will create a loophole through which one could literally drive a bus.

On November 2, 1995, Valley Transit Company opened a new terminal in Austin, Texas in response to the request for service from small towns in southeast Texas, such as Yoakum, Shiner, Gonzales, Lockhart, Luling, Mendoza, Nursery, Thomaston and Cuero, all of which are located between Victoria and Austin. These small communities had recently lost all bus service when Kerrville Bus Lines discontinued service between those points. It should be noted that Greyhound did not seek to institute its own service replacing Kerrville Bus Lines.

When Valley Transit decided to respond to the public need, it approached Greyhound and requested that Valley Transit be allowed to operate into Greyhound's Austin terminal, as Kerrville had done. Valley Transit's request was summarily denied. As a result, Valley Transit was forced to establish its own terminal facility in Austin. Recognizing that its main source of passengers would be from the central portion of Austin near both the University of Texas and the heart of the Hispanic community, Valley Transit spent a considerable amount of time and resources in finding such a location.

Valley Transit also recognized that in order to make the route work, it would be necessary to coordinate its Austin schedules with its existing operations between the Rio Grande Valley and San Antonio. Thus, it initiated three daily schedules which link Austin to its existing operations via San Antonio where Valley Transit interlines with Greyhound and other bus companies at the Greyhound terminal. Valley Transit is currently operating in the Greyhound terminal at San Antonio pursuant to a stay order entered by the United States District Court for the Southern District of Texas in September 1992. The stay order was entered pending the outcome of an antitrust lawsuit which Valley Transit was forced to file when Greyhound attempted to evict Valley Transit from the Greyhound terminals in Houston, San Antonio and Corpus Christi, Texas—*Valley Transit Company, Inc. v. Greyhound Lines, Inc.* C.A. No. B–92–153.

Although Greyhound had previously assured Valley Transit that it would not retaliate against Valley Transit for opening the Austin terminal, Greyhound, with no prior notice, issued a tariff on October 31, 1995, effective November 1, in which it announced that it would not honor any ticket which Valley Transit sold in Austin. *See* Attachment 1. As Greyhound explained in a letter dated November 3, 1995, ''Greyhound will not honor at Austin, TX or San Antonio, TX, any Valley ticket that is issued at Austin, TX for transportation to points beyond Austin, TX or San Antonio, TX.'' Letter to Robert R. Farris from Gregory Alexander, dated November 3, 1995 (Attachment 2).

Subsequently, on November 21, 1995, Greyhound issued another tariff which is

even more restrictive. *See* Attachment 3. As Greyhound explained in a further letter, ''Greyhound will not honor at Austin, TX, or San Antonio, TX, any Valley ticket that is issued at Austin, TX, San Marcos, TX, New Braunfels, TX or Seguin, TX, which provides for transportation to points beyond Austin, TX or San Antonio, TX. *See* Letter to Robert R. Farris from Gregory Alexander, dated November 21, 1995 (Attachment 4). Because these letters show copies going to Jack Haugsland, Greyhound's Vice President of Operations, and Mark Southerst, Greyhound's Vice President, it is evident that these actions are being taken with the acquiescence of some top Greyhound management.

What may not be evident is the impact that the Greyhound tariff provisions are having on Valley Transits' passengers who have chosen to travel via Valley Transit's conveniently located terminal in central Austin. If a passenger buys a ticket at Austin with a destination at Laredo, Valley Transit can take the passenger from Austin as far as San Antonio. Because Valley Transit does not operate between San Antonio and Laredo, it must interline with Greyhound at San Antonio. However, at San Antonio, Greyhound will not accept the passenger's ticket. Nor will Greyhound honor the ticket on the return trip from Laredo to Austin. Instead, Greyhound forces the passenger to purchase a new ticket at San Antonio to travel to Laredo and back, without regard to the passenger's ability to advance funds for the additional ticket until a refund can be obtained from Valley Transit.

Also, if Valley Transit sells a round-trip ticket to Dallas at New Braunfels, the passenger will travel to Austin via Valley Transit. However, because Valley Transit does not operate into Dallas, it must interline with Greyhound at Austin. Because Greyhound will not allow Valley Transit access to its Austin terminal, Valley Transit is required to drop the passenger at curbside outside the Greyhound terminal. Of course, when the passenger enters the Greyhound terminal at Austin, Greyhound will not accept the Valley Transit ticket because it was issued at an ''intermediate'' point between Austin and San Antonio.

The message to the passenger is clear. If you deal with Valley Transit at Austin, you will be harassed and inconvenienced by Greyhound!

This has been done even though Greyhound's existing Bus Terminal License Agreement with Valley Transit contains the following provision:

[Greyhound] shall furnish impartial information as to the routes, schedules and fare charged, and impartially give out, upon request, such other general information as is available.

Prospective passengers destined for competitive points on or beyond the lines of more than one of the carriers operating from the Terminal shall, when the fare, distance and time of arrival and departure are substantially equal, be given the option of selecting the schedule on which they will travel. Otherwise, tickets to competitive points shall be sold on the next bus out or according to passenger preference.

As is obvious, Greyhound has not felt constrained by this language in issuing the tariff restriction against optional honoring of tickets sold in Valley Transit's Austin terminal.

Furthermore, because of Greyhound's monopolistic position in the industry which flows from its control of the only nationwide network of bus terminals, these tariffs have also had an impact on other bus companies. Valley Transit's agent in Austin has been advised by Arrow Trailways that, if Valley Transit were to bring passengers to it at Greyhound's Austin terminal, Arrow Trailways will accept Valley Transit's tickets at the Greyhound terminal, even if the passenger is traveling to a point which is not served by Greyhound. Although Valley Transit has requested Arrow Trailways to stop at Valley Transit's Austin terminal to interline with Valley Transit, as of this date Arrow Trailways has not accepted the invitation. In addition, Valley Transit's agent has been information that Kerrville Bus Lines cannot come to Valley Transit's Austin terminal to offer service because of an agreement with Greyhound. If these activities are not ceased, Valley Transit will have no choice but to withdraw from the Austin market, even though it has responded to a public demand by providing bus service when no other service was available.

I would also like to invite your attention to the most recent draft of the Bus Terminal License Agreement which Greyhound has forwarded to Valley Transit. Section 15(C) of that Agreement provides an alternative dispute resolution (''ADR'') process. However, as states therein, ''Disputes regarding optional honoring of tickets shall not subject to this Section 15(C).'' One can but wonder why this particular item has been singled out for disparate treatment.

I have been forced to conclude that Greyhound has determined that tariffs cancelling optional honoring of tickets can be effectively substituted for the ''25-mile'' rule, which is banned in the proposed Consent Decree, and utilized to restrain competition from other bus companies which must interline through Greyhound terminals. As reflected by the ongoing attempt to drive Valley Transit out of the Austin market, this use of tariffs, instead of the Bus Terminal License Agreements, is as insidious an antitrust practice as the 25-mile rule which the Department of Justice has condemned. While Greyhound will not institute new service to meet a demonstrated public need, it will endlessly harass a smaller competitor which is trying to respond to that need. Furthermore, unless called to terms on the matter at this time, Greyhound will likely use the consent decree as a defense. Thus, if sued, Greyhound will claim that if the Department of Justice had viewed such actions as being violative of the Sherman Act, the Department would have specifically condemned them in this case.

In light of the above, I suggest that certain minor modifications be made to the proposed Final Judgment which the Department of Justice has negotiated with Greyhound. In Section IV(B)(1), Greyhound is restrained and enjoined from:

conditioning access to its terminals, directly or *indirectly,* upon a *tenant* carrier agreeing not to: (i) sell its tickets or busbills at locations other than the Greyhound terminal, or (ii) honor the tickets or busbills of another carrier sold at such other locations.

While it may be that this language would address the problem of other *tenants* refusing to honor tickets of another tenant carrier, it does *not* address the problem of *Greyhound* refusing to honor a ticket which is sold at a non-Greyhound terminal. Thus, while Arrow Trailways' agreement with Greyhound, which is said to preclude and restrain Arrow Trailways from accepting a Valley Transit ticket at a Greyhound terminal, would be covered by the Final Judgment, Greyhound's activities are not. Indeed, based on its recent activities, it appears that Greyhound does not feel constrained by this language.

In order to cure the problem associated with Greyhound's use of its tariffs, rather than its Bus Terminal License Agreements to restrain competition, it is suggested that a new paragraph be added under the heading ''IV *PROHIBITED CONDUCT,*'' which would read as follows:

5. refusing by any means, direct or indirect, to honor the tickets or busbills of a tenant carrier which are sold at locations other than a Greyhound terminal.

Similarly, the language in subparagraph (3) seems to be less precise than is necessary to bring this particular monopolist to heel. As provided therein, Greyhound is restrained and enjoined from:

discriminating against any tenant carrier in the terms or conditions of any BTL Agreement or other agreement governing the lease of space in a bus terminal, where the purpose or effect of such discrimination is to (a) prohibit a tenant carrier from (i) selling its tickets or busbills at locations, other than the Greyhound terminal, for transportation services using that Greyhound terminal *or a terminal or facility that is competitive with such Greyhound terminal,* or (ii) *honoring the tickets or busbills of another carrier sold at such other locations,* or (b) prohibit or substantially limit the tenant from interlining any of its traffic with another carrier at another terminal.

Emphasis added. If the phase ''or by tariff provision,'' is inserted after the words ''or other agreement governing the lease of space in a bus terminal,'' the forbidden discrimination would address the situation which Valley Transit is facing.

Unfortunately, if the Final Judgment is not modified to *explicitly* prohibit the anticompetitive activities which Greyhound is using with respect to Valley Transit's Austin terminal, Greyhound will consider itself free to employ those same tactics against any other bus company which opens a terminal which may be competitive with a Greyhound terminal. If that is allowed to happen, the Final Judgment will be practically useless in bringing a halt to Greyhound's anticompetitive activities to the detriment of the traveling public which is dependent upon bus service as most small bus companies lack the financial ability to battle Greyhound.

Very truly yours,

Richard H. Streeter

Greyhound Lines, Inc.

Special Honoring Arrangements Tariff (ICC GL 722) Naming Rules and Regulations Governing Optional Honoring of Tickets Applicable Between Austin, Texas and San Antonio, Texas Including All Intermediate Points As Named Herein

Issued: October 31, 1995.
Effective: November 1, 1995.

Issued on one (1) day's notice under authority of the Interstate Commerce Commission in Ex Parte No. MG 176. The provisions published herein, if effective, will not result in an effect on the quality of the Human Environment.

Issued By: G. Alexander, Director—Traffic, P.O. Box 660362, Dallas, Texas 75266–0362.

SECTION A

Rules No. and Regulations

1. Application of Fares

The provisions of this tariff apply to the optional honoring of any ticket issued by Greyhound Lines, Inc. which includes travel between Austin, Texas and San Antonio, Texas including all intermediate parties.

2. Optional Honoring Arrangements

In lieu of Rule No. 3, ''Routes'', Paragraph 8 ''Change of Routing or Destination'', subparagraph (1) National Passenger Tariff, ICC MSTA 1000, amendments thereto or reissues thereof, issued by National Bus Traffic Association, Inc., Agent, any ticket issued by Greyhound Lines, Inc. which includes travel between Austin, Texas and San Antonio, Texas and all intermediate points will be honored by Greyhound Lines, Inc. only unless the ticket, is properly ''closed'' to the other carrier or a valid diversion sticker is affixed thereon.

In addition, Greyhound will not honor at San Antonio, Texas or Austin, Texas, any ticket issued by a foreign carrier which provides for transportation, in whole or in part, San Antonio, Texas and Austin, Texas via the lines of a foreign line carrier.

3. Other Rules and Regulations

Except or otherwise provided herein, Rules and Regulations governing this Tariff are as published in National Passenger Tariff, ICC MSTA 1000, amendments thereto or reissues thereof, issued by National Bus Traffic Association, Inc., Agent.

Greyhound Lines, Inc.
P.O. Box 660362
Dallas, TX 75266–0362

November 3, 1995

Mr. Robert R. Farris
Senior Vice President
VALLEY TRANSIT COMPANY, INC.
P.O. Box 530010
Harlingen, TX 78553

Via Facsimile (210) 423–4888 and U.S. Mail

SUBJECT: OPTIONAL HONORING OF TICKETS

Dear Bobby: Enclosed for your information is a copy of Special Honoring Arrangements Tariff, ICC GL 722, effective November 1, 1995, which states in pertinent part that tickets issued by Greyhound Lines, Inc. which include travel between San Antonio, TX and Austin, TX or intermediate points, may be honored by Greyhound only unless the ticket is properly ''closed'' to another company or a valid diversion sticker is affixed thereto. The tariff additionally provides that Greyhound will not honor at San Antonio, TX or Austin, TX, any ticket issued by a foreign line carrier which provides for transportation, in whole or in part, between San Antonio, TX and Austin, TX via the lines of a foreign line carrier.

The provisions contained in that tariff imply the following:

(1) Valley Transit may not honor any Greyhound ticket for transportation, in whole or in part, between San Antonio, TX and Austin, TX.

(2) Greyhound will not honor any Valley ticket for transportation, in whole or in part, between San Antonio, TX and Austin, TX, when the origin or destination of the ticket is Austin, TX.

(3) Greyhound will not honor at Austin, TX or San Antonio, TX, any Valley ticket that is issued at Austin, TX for transportation to points beyond Austin, TX or San Antonio, TX.

Please inform you personnel of the above so that they will not honor tickets which will have no reclaim value to your company and so that they will not issue tickets that Greyhound will not honor.

Very truly yours,

Gregory Alexander,

Director—Industry Relations.

Greyhound Lines, Inc.

*Special Honoring Arrangements Tariff (ICC 722–1) Cancels Special Honoring Arrangements Tariff (ICC 722) Naming Rules and Regulations Governing Optional Honoring of Tickets Applicable Between Austin, Texas and San Antonio, Texas Including All Intermediate Points And *Points Beyond Austin, Texas or San Antonio, Texas As Named Herein*

Issued November 21, 1995.
Effective: November 22, 1995.

Issued on one (1) day's notice under authority of the Interstate Commerce Commission in Ex Parte No. MC 176. The provisions published herein, if effective, will not result in an effect on the quality of the Human Environment.

Issued By: G. Alexander, Director—Industry Relations, P.O. Box 6606362, Dallas, Texas 752–22–0362.

Section A

Rule No.

1. Application of Fares

* The provisions of this tariff apply to the optional honoring by a foreign line carrier of tickets issued by Greyhound Lines, Inc. and the optional honoring of foreign line tickets by Greyhound Lines, Inc., which include travel between Austin, Texas and San Antonio, Texas, including all intermediate points, or travel beyond Austin, Texas or San Antonio, Texas.

2. Optional Honoring Arrangements

In lieu of Rule No. 3, ''Routes'', Paragraph 8 ''Change of Routing or Destination'', subparagraph (1) of National Passenger Tariff, ICC MSTA 1000, amendments thereto or reissues thereof, issued by National Bus Traffic Association, Inc. Agent, any ticket issued by Greyhound Lines, Inc. which includes travel between Austin, Texas and San Antonio, Texas or intermediate points will be honored by Greyhound Lines, Inc. only unless the ticket is properly ''closed'' to another carrier or a valid diversion sticker is affixed thereon.

^ Greyhound will not honor at San Antonio, Texas or Austin, Texas, or intermediate points, any ticket issued at Austin, Texas or San Antonio, Texas, or intermediate points, by a foreign carrier which provides for transportation, in whole or in part, between San Antonio, Texas and Austin, Texas or intermediate points via the lines of a foreign line carrier.

^ Greyhound will not honor at Austin, Texas or San Antonio, Texas, or intermediate points, any ticket issued by a foreign line carrier at Austin, Texas, or at Intermediate points between Austin, Texas, or at Intermediate points between Austin, Texas and San Antonio, Texas, which provides for transportation to points beyond Austin Texas or San Antonio, Texas.

3. Other Rules and Regulations

Except as otherwise provided herein, Rules and Regulations governing this Tariff are as published in National Passenger Tariff, ICC MSTA 1000, amendments thereto or reissued by National Bus Traffic Association, Inc. Agent.

Greyhound Lines, Inc.
P.O. Box 660362
Dallas, TX 75266–0362

November 21, 1995

Mr. Robert R. Farris
Senior Vice President
VALLEY TRANSIT COMPANY, INC.
P.O. Box 530010
Harlingen, TX 78553

Via Facsimile (210) 423–4888 and U.S. Mail

SUBJECT: OPTIONAL HONORING OF TICKETS

Dear Bobby: Enclosed for your information is a copy of Special Honoring Arrangements Tariff, ICC GL 722–A, effective November 21, 1995, which cancels Special Honoring Arrangements Tariff, ICC GL 722. Special Honoring Arrangements Tariff, ICC GL 722–A states in pertinent part that tickets issued by Greyhound Lines, Inc. which include travel between San Antonio, TX and Austin, TX or intermediate points, may be honored by Greyhound only unless the ticket is properly ''closed'' to another company or a valid diversion sticker is affixed thereto. The tariff additionally provides that Greyhound will not honor at San Antonio, TX, or intermediate points by a foreign line carrier which provides for transportation, in whole or in part, between San Antonio, TX and Austin, TX, or intermediate points via the lines of a foreign line carrier. Finally, the tariff provides that Greyhound will not honor at Austin, TX or San Antonio, TX, or intermediate points, any ticket issued by a foreign line carrier at Austin, TX, or

* Denotes Addition SW–190–A Cancels SW–190

* Denotes Addition

^ Denotes Change

intermediate points between Austin, TX and San Antonio, TX which provides for transportation to points beyond Austin, TX or San Antonio, TX.

The provisions contained in that tariff imply the following:

(1) Valley Transit may not honor any Greyhound ticket for transportation, in whole or in part, between San Antonio, TX and Austin, TX or intermediate points.

(2) Greyhound will not honor any Valley ticket for transportation, in whole or in part, between San Antonio, TX and Austin, TX, or intermediate points when the origin of the ticket is Austin, TX, San Antonio, TX or intermediate points.

(3) Greyhound will not honor at Austin, TX, or San Antonio, TX, any Valley ticket that is issued at Austin, TX, San Marcos, TX, New Braunfels, TX, or Seguin, TX, which provides for transportation to points beyond Austin, TX or San Antonio, TX.

Please inform your personnel of the above so that they will not honor tickets which will have no reclaim value to your company and so that they will not issue tickets that Greyhound will not honor.

Very truly yours,

Gregory Alexander,

Director—Industry Relations.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing UNITED STATES' RESPONSE TO PUBLIC COMMENTS to be served on counsel for defendant in this matter in the manner set forth below:

By facsimile and first class mail: Mark F. Horning, Esquire, Steptoe & Johnson, 1330 Connecticut Ave., N.W., Washington, D.C. 20036–1795, for defendant Greyhound Lines, Inc.

Dated: December 18, 1995.

Michael D. Billiel,

Antitrust Division, U.S. Department of Justice, 555 Fourth Street, N.W., Washington, D.C. 20001, (202) 307–6666.

[FR Doc. 96–2663 Filed 2–8–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

The Drugstore; Denial of Application

On June 22, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to The Drugstore, (Respondent) of Oak Grove, Louisiana, proposing to deny its application, executed on January 23, 1993, for registration as a retail pharmacy under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged *inter alia* that David Nagem, the owner of the Respondent company (Owner), (1) dispensed 11,850 various narcotic and non-narcotic controlled substances without a valid physician's authorization; (2) pled nolo contendere to charges brought by the Louisiana State Board of Pharmacy (Louisiana Board) that he had dispensed controlled substances without valid authorization and that he was responsible for controlled substances shortages at the pharmacy where he was employed; and (3) that he pled guilty to and was convicted of two counts of illegal distribution of controlled substances on June 5, 1992. The order also notified the Respondent that, should no request for a hearing be filed within 30 days, the hearing right will be deemed waived. The DEA received a receipt from the United States Postal Service showing that the order was delivered, and the receipt was signed and dated June 27, 1994. However, no reply was received by the DEA to the order.

Therefore, the Deputy Administrator concludes that the Respondent is deemed to have waived its hearing right. After considering the investigative file, the Deputy Administrator now enters his final order in this matter without a hearing pursuant to 21 CFR 1301.54(e) and 1301.57.

The Deputy Administrator finds that the Owner submitted a DEA application for registration as a retail pharmacy dated January 23, 1993, in the name of The Drugstore. In response to a question on this application, the Owner wrote that his Louisiana pharmacy license ''was taken from Jan[uary] 25, 1992[,] to July 25, 1992[,] for giving out medicine (prescription) without proof of legal prescription from a physician. David's [Louisiana] license was taken for 6 months, fine was given & paid, and probation during [that] time.'' No other adverse information or explanations were contained on the application.

DEA investigators researched the Owner's record in response to this application, finding that the West Carroll Parish Sheriff's Office (Sheriff) had conducted an investigation of the Owner after receiving information from a confidential source that he was dispensing controlled substances without prescriptions. The Sheriff found that, while the Owner was employed at the West Carroll Memorial Hospital Pharmacy, Oak Grove, Louisiana, he had dispensed, *inter alia*, Tylenol No. 3 and No. 4, and Darvocet without prescriptions authorized by a physician, to two individuals over a timeframe spanning January 1990 through January 1992. Also, between September 1990 through February 1992, he had dispensed controlled and non-controlled substances, including Xanax, Restoril, and Tylenol No. 4, to six other individuals without a physician-authorized prescription. Darvocet is a brand name for a substance containing propoxyphene napsylate, a Schedule IV controlled substance, Tylenol No. 3 and No. 4 are Schedule III controlled substances, Restoril is the brand name for a substance containing temazepam, a Schedule IV controlled substance, and Xanax is a brand name for a substance containing alprazolam, a Schedule IV controlled substance. As a result of this conduct, the Louisiana Board charged the Owner with five counts of violating Louisiana law by engaging in conduct which endangered the public health, by dispensing unauthorized Schedule III and IV controlled substances, and by violating audit shortage provisions of State law. On April 22, 1992, a hearing was held, the Owner entered a nolo contendere plea, and the Board ordered that the Owner's pharmacist's license be suspended for 60 months, actively for 3 months, and on probation for 57 months.

On June 8, 1992, the Owner entered a guilty plea in the Fifth Judicial District Court, Parish of West Carroll, Oak Grove, Louisiana, to two counts of unlawful distribution of drugs in violation of Louisiana law. The court accepted his plea and sentenced him to pay a total of $7,500.00 in fines. The Owner did not disclose this conviction on his DEA application.

On February 12, 1993, the Louisiana Board voided the Owner's application for a pharmacy permit for the Drugstore, concluding that the application was no longer active.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may deny an application if he determines that the DEA registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J.