Ontario

Ontario Highway Transport Board

ANNUAL REPORT 2013

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To: The Honourable Elizabeth Dowdeswell
Lieutenant Governor of the Province of Ontario

MAY IT PLEASE YOUR HONOUR:

The undersigned takes pleasure in submitting the Annual Report for the Ontario Highway Transport Board for the calendar year ending December 31, 2013.

Respectfully submitted,

Steven Del Duca
Minister

To: The Honourable Steven Del Duca
Minister of Transportation

In accordance with Section 33 of the *Ontario Highway Transport Board Act*, R.S.O. 1990, c. 0.19, I have the honour to present the report of the activities of the Ontario Highway Transport Board for the calendar year ending December 31, 2013.

Respectfully submitted,

Gary Stanley

Gary R. Stanley
Chair

The Board

The Board is constituted by virtue of and in accordance with the provisions of the *Ontario Highway Transport Board Act*, R.S.O. 1990, c. 0.19. It operates as a quasi-judicial administrative tribunal. Under the *Public Vehicles Act,* R.S.O. 1990, c. P.54 and the *Motor Vehicle Transport Act,* 1987, R.S. (1985) c. 29 (3^{rd}. Supp.), the Board controls entry and maintains an orderly development in the business of transporting passengers for compensation in public vehicles, into, out of, within and through Ontario.

Members of the Board (as at December 31, 2013)

Gary R. Stanley, Chair, Toronto

Gilles Morin, Member, Ottawa

Message from the Chair

The Ontario Highway Transport Board ("OHTB") remains an independent adjudicative triibunal that oversees the entry into and the orderly development of the business of transporting passengers for compensation in public vehicles within Ontario and to and from other jurisdictions at an arm's length relationship to the government.

The OHTB administers the *Ontario Highway Transport Board Act*, the *Public Vehicles Act*, and the federal *Motor Vehicle Transport Act*.

Under this legislation, the Board deals with applications for new or extended operating licences and with applications under Sections 10 and 11 of the *Public Vehicles Act*. Section 10 applications deal with the suspension or cancellation of existing operating licences for operations in contravention of their operating licences and Section 11 applications, filed by interested parties, deal with unlicensed operations in contravention of the legislation. Quite often, carriers found guilty of operating without the necessary operating authority subsequently apply and are granted the necessary licence and are now legally operating.

These applications are dealt with by way of either a written hearing or a public hearing. The Board staff makes every attempt to work with the parties to eliminate or lessen the cost of any public hearings for the parties involved. Any Board costs relative to the hearings are recovered from the parties and deposited directly into the Consolidated Revenue Fund.

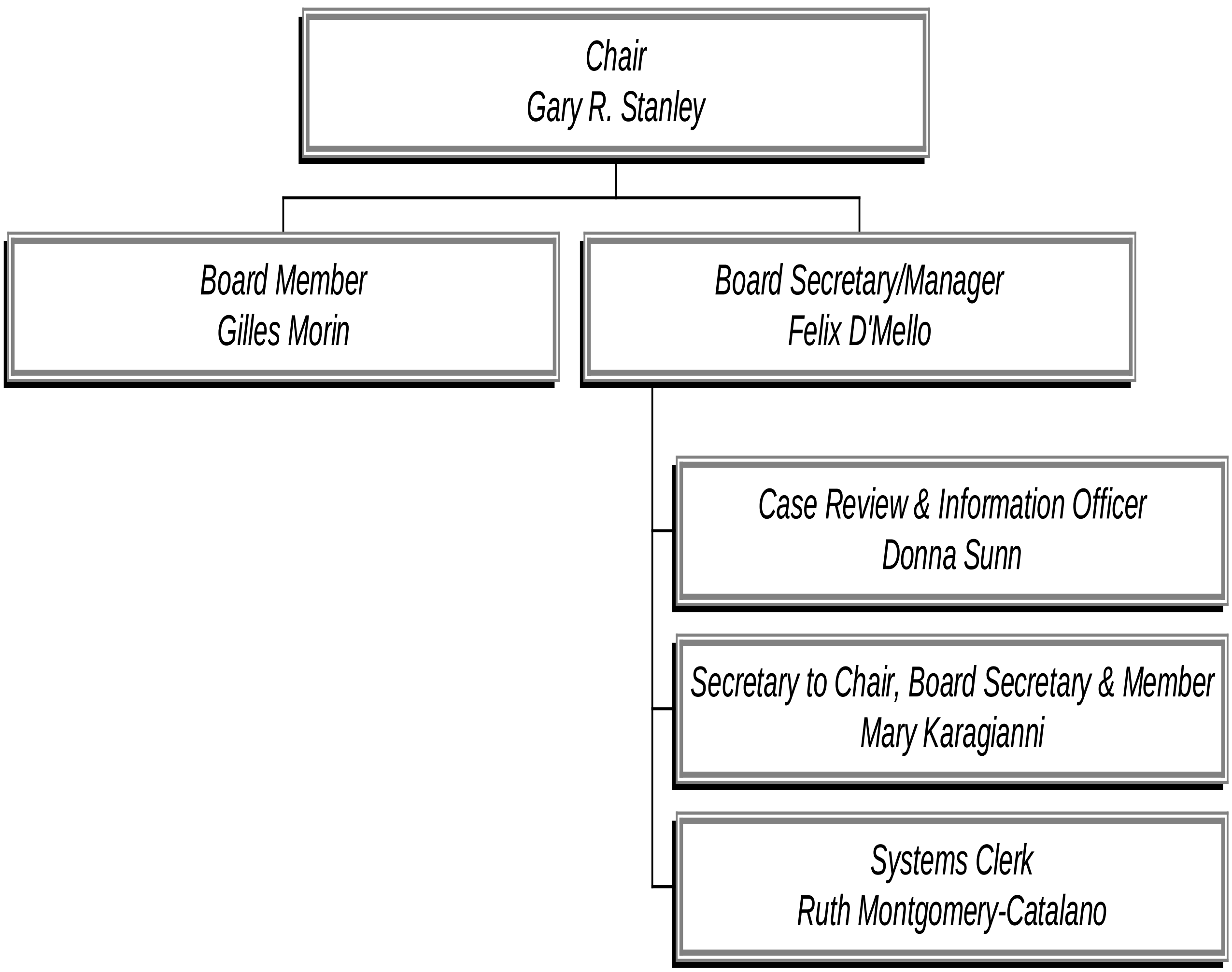
Although the Board continues to operate with mainly part-time administrative staff, all applications are processed in a timely fashion and in compliance with any regulated timing deadlines. The Board annually submits a Business Plan to the Minister of Transportation. One of the Performance Measures and Targets included in the Plan is that all decisions be made within 14 days of completion of a hearing. I am pleased to report that the Board met this target in 2013.

The inter-city bus and limousine industry plays a vital role in providing public transportation services to the citizens of Ontario and the Board ensures that it assists its stakeholders in every possible manner to ensure that the travelling public is well served.

Gary R. Stanley
Chair

Organizational Chart

(at December 31, 2013)



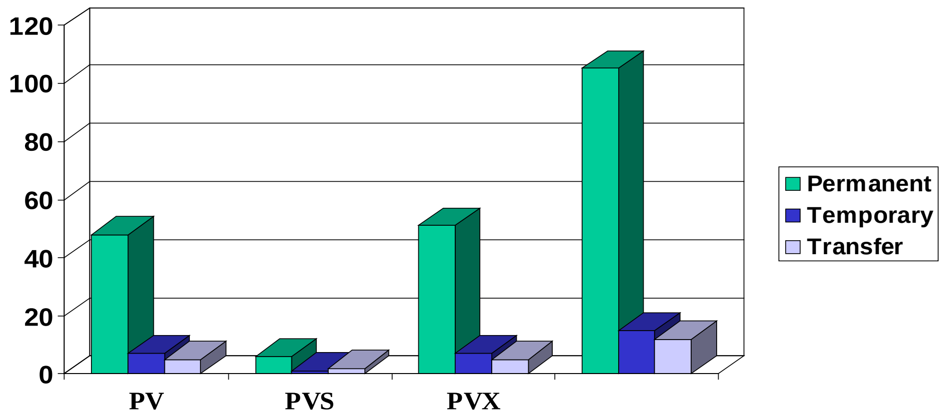
FINANCIAL INFORMATION

Revenues/Recoveries		**2013**	**2012**
Filing Fees		$ 54,368	$ 50,824
Special Authorities		4,295	2,718
Costs Recovered for Hearings		12,395	15,679
U.S. Exchange		-46	-168
	Total	**$ 71,012**	**$ 69,053**

Expenses			
Salaries		$ 416,974	$ 421,256
Travel and communication		11,002	12,180
Equipment and supplies		25,129	24,926
	Total	**$ 453,105**	**$ 458,362**
Net Cost of Board's Operations		**$ 382,093**	**$ 389,309**

Note: Revenues/Recoveries are deposited directly into the Consolidated Revenue Fund.

Applications Received



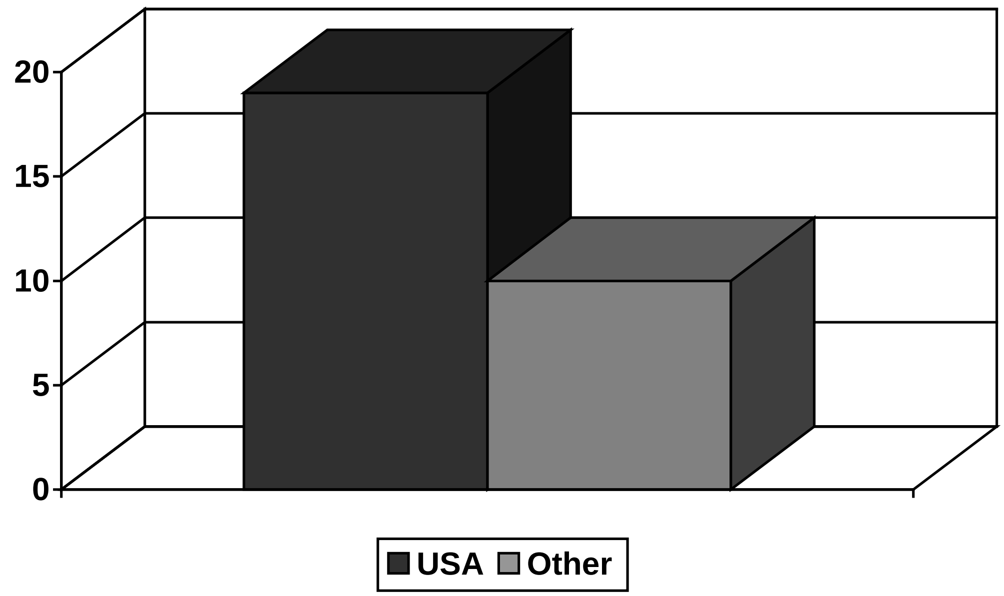
Type/Class	PV	PVS	PVX	TOTAL
Permanent	53	49	3	**105**
Temporary	2	7	1	**10**
Transfer	14	24	9	**47**
TOTAL	**69**	**80**	**13**	**162**

Legend:

PV	Public Vehicle Applications (Intra-Provincial Undertaking)
PVS	Public Vehicle (School Bus) Applications (Intra-Provincial Bus Undertaking) School Bus ONLY
PVX	Part I Motor Vehicle Transport Act Applications (Extra-Provincial Bus Undertaking)

Special Authorities Processed

Special Authorities Processed



APPLICANTS' HOME BASE

U.S.A.	19
Other Provinces & 1 from Mexico	10
TOTAL	**29**

Applications Received by Region

Outside Ontario	29
Alberta	8
Manitoba	2
Quebec	9
Saskatchewan	1
U.S.A.	9

Ontario-Regional Boundaries

Central Region	79
Barrie	12
Durham	3
Halton	8
Niagara	4
Peel	15
Toronto	25
York	12

Eastern Region	12
Hastings	1
Leeds & Grenville	1
Ottawa	2
Prescott & Russell	6
Stormont, Dundas & Glengarry	2

Northern Region	12
Muskoka	5
Nipissing	4
Simcoe	3

Northwestern Region	8
Thunder Bay	8

Southwestern Region	22
Brant	2
Chatham-Kent	2
Middlesex	5
Perth	2
Waterloo	6
Wellington	5

Summaries – Reasons for Decision

The following summaries of applications for operating licences and applications for sanctions and reviews that were adjudicated by the Board in the 2013 calendar year represent examples of the type of matters handled by the Board. The Board's complete decisions are available and may be requested from its office, telephone: 416-326-6732.

Public Vehicles Act	***PVA***
Motor Vehicle Transport Act	***MVTA***
Scheduled Service:	**A bus transportation service for which an applicant or licensee files a timetable indicating the times of arrivals and departures.**
Chartered Trip:	**A bus transportation service exclusively for a group of persons going on a trip.**

Applicant: **Joseph A. Goodmurphy** **File No: 47473/A**
o/a "Spotlight Limousine" ("Spotlight")
Belleville, ON

Respondent: 1324474 Ontario Ltd.
o/a "Ontario Coachway" ("Coachway")

Application: Spotlight has an operating licence to operate chartered trips from a large geographical area but is restricted to the use of one Class "D" vehicle with a maximum seating capacity of 8 passengers exclusive of the driver. This application is to delete the restriction of one vehicle and allow him to operate an unlimited number of Class "D" vehicles.

Respondent's Case: The majority of Coachway's business is a scheduled service between its licensed area and Lester B. Pearson International Airport in Mississauga. They also undertake chartered trips both within and out of the Province of Ontario. They offer a 24-hour a day service all year round. They offer a variety of vehicles and their clientele includes schools, corporations, the military and private individuals. They are primarily an airport service. They have had a steady decline in revenue over the last 3 years but expenses have increased by 60% and insurance costs have risen by 300%. Currently, 30% of their equipment is idle and there has been a layoff of drivers and staff. In their opinion, the market was saturated and there was no need for more vehicles on the road. Their primary objection is that Spotlight would impact its primary business to or from Lester B. Pearson International Airport.

Decision: The Board considered the impact on the respondent if the operating licence was granted, the transportation needs of the public evidence on file and the applicant's ability to provide the service.

Coachway alleged that they were facing decreased revenues and increasing costs and if the application was approved, it would negatively impact their operations. However, Coachway provided absolutely no statistics to back these claims and without this information, the Board was unable to reach any decision as to the Validity of the allegations. Spotlight is a small operation providing chartered trips only and it would not impact the scheduled airport service offered by Coachway.

The public evidence on file in support of the application demonstrated both a need and convenience for the service.

In the Board's opinion, Spotlight was ready, willing and able to provide the service applied for.

The application was granted but restricted to Class "D" vehicles with a maximum seating capacity of 24 passengers exclusive of the driver.

Applicant: **Trentway-Wagar Inc. ("Trentway")** **File No.: 44032-RE(2)**
Peterborough, ON

Interested Party: Greyhound Canada Transportation ULC **("**Greyhound**"**

Respondent: James R. Reid ("Reid")
o/a "James Reid Transportation"

- he didn't post a schedule;
- he did no advertising;
- he received only one payment per trip;
- he sold no tickets;
- there was only one group of Queen's University students that was going home for the holidays;
- his licence, PV-4160, clearly states that he can originate **chartered trips** from points in the Counties of Lennox and Addington and Frontenac and he therefore thought he was legal; and
- he made a mistake in not contacting the Board.

He requested the Board for leniency because of the financial hardship he was currently facing due to the teacher's strike and loss of business. 90% of his business was with schools and the financial impact of the loss of this business was very extensive.

Decision

The Board disagreed with Reid's definition of chartered trips. Based on Reid's evidence, the trips were one-way chartered trips from Kingston and Toronto. In the Board's opinion, even if the service met the definition of a chartered trip, the fact remained that on the return trips from Toronto to Kingston, it was not the same exclusive group that travelled from Kingston to Toronto. It was a new chartered trip that originated in the Greater Toronto Area and Reid did not have any authority to originate chartered trips from Toronto as a point of origin in his licence and therefore Reid was operating in contravention of the *Public Vehicles Act.*

Based on precedence, the Board summarized a chartered trip as being a service to transport an exclusive group of passengers on a trip from one location to another for a common purpose. The key words being "trip", "exclusively" and "group".

<u>Trip</u> was a journey travelling from one place to another and generally returning to point of origin.

<u>Exclusively</u> meant solely for one particular group and excludes other passengers.

<u>Group</u> meant a number of persons forming a group, classed together and going on a trip.

In summary, a chartered trip is intended to provide a service to an exclusive group such as a club or association travelling together to a specific common destination such as a sports event, a theatre, etc. and returning to the point of origin after the event is over.

Passengers travelling with Reid were not an exclusive group but were doing so for individual reasons – there was no common destination. For Reid to argue that he did not sell tickets, did not advertise, did not post a timetable and only provided the bus and driver and therefore did not operate in contravention of the *Public Vehicles Act* had no merit. There was a publicized schedule of departures and arrivals, single one-way fares were sold and there was no exclusivity to the group; therefore, the service provided by Reid was a scheduled service. **Reid was therefore operating in contravention of the *Public Vehicles Act.***

The Board ordered Reid to stop the unauthorized service. The Board also ordered that the public and extra-provincial operating licences held by Reid be made temporary for a one year period. The licences could be made permanent by application by Reid and after the completion of an audit to be conducted at the expense of Reid to verify that he has complied with the *Public Vehicles Act* and the *Motor Vehicles Transport Act* during the suspension period.

Costs were also assessed against Reid payable to the Board and the Applicant.

<u>Applicant</u>: **Trentway-Wagar Inc. ("Trentway")** **<u>File No.: 47500-RE(1)</u>**
Peterborough, ON

<u>Interested Party</u>: Greyhound Canada Transportation ULC **("Greyhound")**

Respondents: Darren Cole and Bill Mei
o/a *"*The Kingston Rocket*"*

Application: Trentway and Greyhound alleged that Darren Cole and Bill Mei, o/a "The Kingston Rocket" were operating in contravention of the *Public Vehicles Act* specifically Section 2(2) of the *Public Vehicles Act* which states:

<u>Arranging Transportation</u>

Applicant's Case: Entered into evidence by Trentway was an Acknowledgement and Undertaking by Bill Mei which stated that:

- he and Darren Cole organized a bus transportation service for students at Queen's University. The service operated under the name "The Kingston Rocket";
- they developed a website outlining price comparisons with other modes of transportation and also posted the timetables of the service;
- the service was initially offered over the 2012 Thanksgiving weekend originating at Queen's University and dropping off passengers at three separate locations in the Greater Toronto Area. They offered a similar service over the 2012 Christmas holiday period;
- they were advised by letter from counsel for Trentway that the service being offered by the Kingston Rocket was in violation of the *Public Vehicles Act;*
- Mr. Mei then acknowledged that the services arranged and provided by him and Mr. Cole were in violation of the *Public Vehicles Act* in that Reid, who provided the transportation, did not hold the required public vehicle operating licence;
- he then undertook not to arrange or offer to arrange a public vehicle service unless the operator of the service held the required public vehicle operating licence; and
- he consented to the issuance of an Order by the Board ordering them to stop providing a service in contravention of the *Public Vehicles Act.*

Greyhound's position as an interested party was to ensure the unauthorized service cease immediately as the economic impact on Greyhound would impact their entire system of operations in Ontario.

Both Greyhound and Trentway did not ask for costs from the respondents.

<u>Decision</u>: The Board concluded that the unauthorized service was provided by both Mr. Mei and Mr. Cole even though Mr. Cole denied any involvement. An Order from the Board would be issued against both of them.

In spite of repeated advice from Trentway and Greyhound and the laws of Ontario, the Kingston Rocket chose to ignore them and continued to operate the unauthorized service. In fact they chose to seek support from the media and circulated a public petition on the internet to get support for their operation. They chose not to call the Board for any guidance or assistance to clarify the alleged claims of Trentway and Greyhound. The Board emphasized that had the Kingston Rocket obeyed the law or sought advice then the entire matter would have been dealt with amicably. In the Board's opinion, the Queen's University students would have suffered a minor convenience and alternate transportation would have been provided by the licensed carrier.

An Order was issued by the Board to stop the unauthorized service immediately and the Board's costs were also assessed under Section 24 of the *Public Vehicles Act.*

Applicant:	**TRAXX Transportation Ltd. ("TRAXX") Medicine Hat, AB**	**File No.: 47502**

Respondents:

1. P.W. Transportation Ltd.
2. Great Canadian Coaches Inc.

Application:

Transport passengers on a chartered trip for Jonview Canada Inc. ("Jonview") from points in the Regional Municipality of Peel (including Lester B. Pearson International Airport) to the Ontario/Manitoba, Ontario/Québec and the Ontario/U.S.A. border crossings for furtherance and:

1. for the return of the same passengers to point of origin; and
2. on a one-way chartered trip to points as authorized by the relevant jurisdictions.

The application was restricted to passengers who have had a prior movement by air to point of origin and a subsequent movement by air at point of destination. All chartered trips operated would be those initiated, organized and advertised by Jonview.

Applicant's Case:

Faced with opposition, TRAXX deleted the round trip portion of the application and only proceeded with the one-way chartered trip to other jurisdictions.

TRAXX has developed a close relationship with Jonview and is their preferred carrier. The majority of the tour takes place in TRAXX's normal area of operations and it was not their intention to operate any chartered trips to other jurisdictions.

Respondent's Case:

Initially, the objections were vague and did not quantify any economic impact the application, if approved, would have on their operations. The Board requested the respondents to specifically identify the revenue they would lose if the application for one-way chartered trips was approved. Once again, the response failed to address the issue and the information provided was insufficient.

Decision: The application was to serve the one customer and TRAXX was their carrier of choice. TRAXX emphasized that they were not interested in the Ontario round trip originated tours and were only seeking one-way chartered trips to Western Canada. In the Board's opinion, the one-way chartered trips to Western Canada eliminated the economic impact, if any, on the respondents. The respondents failed to prove the economic impact on their operations if the application was approved.

The application was granted.

Applicant: **Excel Coach Lines Ltd. ("Excel")** **File No.: 47501-RE(1)**
Kenora, ON

Respondent: Richfield Bus Company ("Richfield")
Bloomington, Minnesota, U.S.A.

Applicant's Case: Excel alleged that Richfield operated a chartered trip for St. Thomas Aquinas High School in Kenora. Richfield was not licensed to provide this service and was operating in contravention of the *Public Vehicles Act* and *Motor Vehicle Transport Act.*

Respondent's Case: During an investigation by the Board investigator, Richfield admitted to the Board investigator to doing the trip but indicated that he had been advised by the Ministry of Transportation of Ontario that if the trip originated in the United States, then it was legal. They picked-up 2 passengers at International Falls, Minnesota and 31 additional passengers at St. Thomas Aquinas High School in Kenora, Ontario. They travelled to Taos, New Mexico and returned to Kenora. The trip was arranged by the school. The Board investigator advised Richfield that they required an operating licence under the *Motor Vehicle Transport Act* to legally offer the service which they did not have. Richfield indicated that there was another similar trip coming up for the school and he would consider circumventing the Canadian laws by having all the passengers travel to International Falls, Minnesota to board the bus. Richfield stated that they were not familiar with the licensing requirements in Ontario and Canada.

Decision: Subsequent to Richfield's meeting with the Board investigator, the Board wrote to Richfield that they had the option of pleading guilty to the charges or proceeding to a public hearing. Richfield did not respond to this letter and to a second reminder. The Board then contacted Richfield by telephone to resolve the matter but Richfield was abrupt and uncooperative. Richfield also stated that they would not attend any hearing that may be scheduled and that the Board could do whatever they wished.

Based on the evidence, the Board concluded that Richfield did operate the chartered trip without the proper operating authority and therefore operated in contravention of the *Motor Vehicle Transport Act*. Of concern to the Board was Richfield's statement that they would circumvent the laws by having the passengers cross the Canada/U.S.A. border and board the bus at International Falls, Minnesota.

Having exhausted all avenues to resolve the matter and avoid unnecessary expenses, the Board issued an Order to Richfield to stop the unauthorized service immediately. Costs were also assessed against Richfield. A copy of the Order was also sent to the Enforcement Branch of the Ministry of Transportation in Kenora and to St. Thomas Aquinas High School.

Applicant: **Barrie Executive Transportation & Limousine Inc. ("Barrie") Barrie, ON** — **File No.: 47488/A**

Respondent: 1827341 Ontario Inc. o/a "Mr. Limo"

Application: Barrie alleged that Mr. Limo was operating in contravention of the *Public Vehicles Act* by providing a service not authorized in their operating licence. This application was brought under Section 11 of the *Public Vehicles Act* dealing with the operations and conduct of Mr. Limo.

Applicant's Case: Barrie alleged that Mr. Limo had provided unauthorized service in a public vehicle on two separate occasions. The allegations were supported with numerous photographs of the vehicles involved in providing the unauthorized transportation. The economic impact on Barrie's operations by Mr. Limo's unauthorized operation was significant and they requested the Board deal with the matter expeditiously.

Respondent's Case: Mr. Limo did confirm to the Board that they did do the unauthorized trips. Mr. Limo was currently operating under a new ownership for over a year and applications to transfer ownership would be submitted to the Board.

Decision: The Board concluded that:

- the service provided by Mr. Limo was in contravention of the *Public Vehicles Act*; and
- for over a year Mr. Limo has not applied for a change of ownership in spite of being advised by the Board that he had to do so. This had still not been accomplished and Mr. Limo was continuing to operate in contravention of the *Public Vehicles Act.*

The Board ordered Mr. Limo to stop the unauthorized service immediately or they may be subject to further disciplinary action by the Board.

<u>Applicant</u>: **1879559 Ontario Inc.** **<u>File No.: 47512/A</u>**
o/a "Norfolk and Dorchester Limo"
("Norfolk")
Dorchester, ON

Respondents:

1. Grandeur Limousine Inc. ("Grandeur")
2. 2175949 Ontario Ltd.
   o/a "A Universal Limousine" ("Universal")

Applications: Intra and extra-provincial applications to operate chartered trips from the Counties of Haldimand, Norfolk, Middlesex, Oxford, Perth, Brant, Dufferin, Huron, Lambton, Bruce, Essex, Elgin and Wellington, the Municipality of Chatham-Kent and the Regional Municipality of Waterloo in Class "D" vehicles.

Applicant's Case: Norfolk has operated for three years and ownership changed from father to daughter in March 2013. Norfolk admitted that they did not currently hold public vehicle or extra-provincial operating licences as they were not aware of the requirements of these licences to run their business. Their goal was to operate a "reliable, safe and cost effective luxury transportation service." They would concentrate on service for weddings, proms, sporting events, concerts, wine tours, etc. They offered a variety of vehicles to meet the public need. The population was growing and there was a large demand for service for the limousine companies. Their applications were supported by travel agencies, wedding and event planners. Norfolk reiterated that they, like many others, were unaware of the legislation that they be the holders of provincial operating licences to run their business. Only two of the many licensed carriers chose to oppose the applications. In their opinion, the financial impact on the respondents would be minimal if the applications were granted. They have operated for three years and there was no economic impact on the respondents. The two respondents have added more equipment to their fleet and their revenues have increased. Should the Board deny the applications, the family business would be put in a "devastating position."

Respondent's Case: <u>Grandeur</u> has been in business for 20 years and they provide service for weddings, proms, corporate events, airport services, etc. Their business was down compared to the previous year because Norfolk was offering lower prices and taking away their business. They had made a large investment in fleet upgrades but Norfolk's reduced rates were impacting the profitability of their operations, i.e. employee lay-offs, lower prices and a possibility of a financial loss for the first time in five years.

<u>Universal</u> and a subsidiary company have a fleet of eighteen limousines and they offer pre-arranged service for weddings,

concerts, proms, airport and sporting events. They alleged that the granting of these applications would have a negative impact on their operations that could result in bankruptcy and the loss of jobs for over 25 employees. They had made substantial investments in new vehicles and they would not be able to make lease payments if the applications were granted. They could not match Norfolk's lower rates as it would make their operation unprofitable. Their revenues showed a significant drop from the previous year.

Decision:

Transportation Needs of the Public

Eight companies/individuals supported the applications. They were all extremely happy with the services provided by Norfolk. The services were provided without the proper authority, but the Board stated that this was common in the limousine industry as they were unaware of the requirements of the provincial legislation. Grandeur, one of the respondents, had been in business for twenty years but only got the necessary licences in 2005, having operated in contravention of the provincial legislation for approximately twelve years. In the Board's opinion, Norfolk should not be penalized for operating in a similar manner.

Impact on Existing Carriers

The information provided by the respondents was not too specific and it was difficult for the Board to assess the economic impact on their operations if the applications were granted. They alleged their revenues had decreased in the past year and blamed this on Norfolk. However, the Board questioned this allegation as they had invested in new equipment in the last few years.

The respondents failed to deal with the public support for the applicant. Have they ever served these customers? Did they lose these customers to Norfolk? Without this information, the Board was unable to assess the economic impact on their operations if the applications were granted.

The lower rates charged by Norfolk is outside the Board's jurisdiction.

Based on the information provided by the respondents, the Board was unable to assess the quantum of any negative impact on the respondents if the applications were granted.

Applicant's Ability to Provide the Service

The Board stated that Norfolk had been in business for a long period under different management and in the absence of any evidence to the contrary concluded that it had no reason to question their ability to provide the service.

The applications were granted.

<u>Applicant</u>: **Tisdale Bus Lines Ltd. ("Tisdale")** **<u>File No.: 45826-RE(1)</u>**
Timmins, ON

Respondent: Angel Tours & Entertainment Inc.
o/a "Angel Coaches of Canada" ("Angel")

Application: Tisdale alleged that Angel operated in contravention of the *Public Vehicles Act* by transporting passengers on a chartered trip that did not comply with the definition of a <u>chartered trip</u> as defined in the regulations.

Applicant's Case: Tisdale had no difficulties in facing fair competition but not with anyone who was operating in contravention of the *Public Vehicles Act*. Tisdale alleged that Angel and 1315856 Ontario Inc., o/a "Luxury Coach" ("Luxury") concocted a plan to split a chartered trip into two segments. Angel quoted and invoiced for the entire trip but only operated part of the trip. The trip was to start in North Bay and destined for St. Louis, Missouri and return. Angel started the trip from North Bay and ended at King City where the passengers were transferred to Luxury who then completed the rest of the trip. Tisdale alleged that Angel's trip did not meet with the definition of a chartered trip as the trip from North Bay to a parking lot in King City did not meet with the definition. Tisdale emphasized that splitting a single chartered trip into segments was not permitted and he had confirmed this fact with other bus carriers in the industry. Angel was wrong to suggest that splitting of a single chartered trip was common in the industry. The entire chartered trip should have been undertaken by one licensed carrier to comply with the *Public Vehicles Act*/Regulations. What Angel and Luxury did was to manipulate the legislation and Tisdale requested the Board to issue an Order to cease the unlicensed service.

Tisdale questioned why there was no HST charged on the portion of the trip that Ms. Ricci claimed to have serviced under her public vehicle operating licence.

Respondent's Case: Angel was approached by a school to provide a chartered trip from North Bay to Missouri, U.S.A. and return. Angel insisted on pre-payment and as this was not made available until later, Angel had no equipment to do the entire trip but explored options to provide the service in combination with Luxury. Angel said that sub-contracting a charter was not wrong as the legislation does not forbid such an action. It would be wrong to penalize Angel for brokering a trip as they had done no wrong. Angel splits chartered trips all the time.

<u>Decision</u>: The Board had to decide whether a licensed operator can undertake a chartered trip for a customer and then split up the trip with other carriers. Can one chartered trip be split up into several pieces?

To answer this question, The Board dealt with the simple basics of the application process. An applicant on his/her own applies to provide the service which may be to operate a scheduled service or a chartered trip. The applicant has to meet the statutory test of public necessity and convenience which entails providing a business plan and also provide written evidence from the public supporting the applicant to obtain the licences. The public is supporting the applicant and not a team of carriers.

The *Public Vehicles Act* only refers to the applicant and licence in the singular and the licenses are issued to a single applicant and not a group of applicants or licensees. The definition of a chartered trip refers to a singular licensee. Public evidence, whether written or under oath, supports an applicant for various reasons. They are all supporting the one applicant to meet their transportation needs. This process was followed when Angel obtained their operating licences. The relevant statute states "At the conclusion of the hearing, the Board may issue an operating licence to the applicant if the Board is of the opinion that the licence will serve public necessity and convenience." The Board had never received an application for an operating licence based on the splitting of a chartered trip amongst two or more carriers. The Board agreed with Tisdale's assertion that there was no precedence for a licensed carrier to split a chartered trip into pieces with other carriers. The Board concurred with previous decisions of the Board as to what constitutes a chartered trip and found no reason to change its opinion based on the evidence at the hearing.

A chartered trip is the transportation of an exclusive group of passengers on a trip from one location to another for a common purpose, i.e. a concert, sporting events, casino, theatre performances, etc. Angel's trip from North Bay to a parking lot in King City could not be construed to be a chartered trip. In the Board's opinion, a chartered trip cannot be split between two or more carriers in an attempt to circumvent the wording of an operating authority. Angel should have provided the complete service. If Angel was unable to meet the commitment, then the trip should have been passed on to another licensed carrier that was ready, willing and able to undertake the chartered trip. Angel's assertion that "farming out" parts of chartered trips was no different than getting assistance from another carrier for a roadside emergency was incorrect. Regulations under the *Public Vehicles Act* specifically deal with roadside emergencies and the comparison was totally unfounded. Angel did admit that they had been "farming out" trips for years and the Board stated, if that was the case, Angel had been operating illegally for many years.

The Board also stated that the point of any origin of any chartered trip is the point where the trip started as authorized by their operating licence. On an extra-provincial operating licence, passengers must be returned to that point of origin where the charter originated if the licence states so.

In the opinion of the Board, Angel, in combination with Luxury, worked in collusion to interpret or circumvent the legislation to their advantage.

Angel was found to have operated in contravention of the *Public Vehicles Act* and ordered to stop the illegal service immediately. The Board also stated that any further contravention of the *Public Vehicles Act* may result in Angel's operating licences be suspended or cancelled.

Although outside the Board's jurisdiction, another cause of concern to the Board was the mention that was made that Ms. Ricci is attempting to circumvent both provincial and federal legislation in the manner in which she charges HST on her invoices. Ms. Ricci was advised to ensure that she complies with the necessary legislation on future invoicing and should not attempt to circumvent the law as a sales tool.

<u>Applicant</u>:	**Tisdale Bus Lines Ltd. ("Tisdale")** **<u>File No.: 45826-RE(2)</u>** **Timmins, ON**
Respondent:	1315886 Ontario Inc. o/a "Luxury Coach" ("Luxury")
Application:	Tisdale alleged that Luxury operated in contravention of the *Public Vehicles Act/Motor Vehicle Transport Act* by operating in contravention of the terms of their operating licence.
Applicant's Case:	Tisdale alleged that Luxury's extra-provincial operating licence specifically stated that passengers had to be returned to the point of origin where the chartered trip started, i.e. King City. Luxury however did not comply with the terms of their operating licence and instead returned the passengers to North Bay, a point that Luxury was not authorized to serve. Tisdale alleged that Luxury and Angel Coaches of Canada, o/a "Angel" concocted a plan to split up a chartered trip into two segments. Angel quoted and invoiced for the entire trip but only generated a chartered trip for the North Bay to King City segment. Angel's trip was not really a chartered trip as defined as no person would take a chartered trip from North Bay to a "parking lot" in King City. Angel should have undertaken the entire trip or hired a licensed carrier to do so if they were unable to provide the entire service. Tisdale stated that splitting a chartered trip into two parts was not practiced by the bus industry in Ontario. Tisdale alleged that the entire chartered trip was a manipulation of the legislation and requested the Board to order Luxury to cease the unlicensed operation.
Respondent's Case:	Luxury stated that they initially declined the request from West Ferris Secondary School to provide the chartered trip from North Bay because they were not authorized to serve North Bay. Luxury advised the school to contact other licensed carriers. However, when Angel split the trip, i.e. Angel would provide the service from North Bay to King City and Luxury would undertake the trip from King City to St. Louis, Missouri and return - Luxury agreed to provide the service. Luxury returned the group to North Bay and they felt they did nothing wrong as the point of origin of a trip was a grey and

vague area of the licence. Luxury was in the business of serving their customers. They alleged that Tisdale was bearing a vendetta against Angel and Luxury. They did no wrong as other carriers do the same thing on a daily basis. They would however apply to the Board to amend/extend their operating authorities.

Decision:

The Board had to decide if the extra-provincial operating licence of Luxury allowed them to pick-up a chartered group in King City, travel to St. Louis, Missouri and return the passengers to North Bay. In the Board's opinion, Luxury was not allowed to do the service that they undertook. The school requested a chartered trip that would originate in North Bay where they were stationed to St. Louis, Missouri and return to North Bay. Angel and Luxury divided the chartered tri into two segments, i.e. a local bus undertaking and an extra-provincial bus undertaking. The legality of this arrangement is fully addressed in the Angel Decision which determined that the arrangement was in contravention of the *Public Vehicles Act.* In this decision, the Board had to decide if Luxury operated in contravention of the terms of its operating licence.

Based on the evidence, Luxury did admit that they started the chartered trip from King City and continued to Missouri, U.S.A. and returned the same passengers to North Bay. The passengers were not returned to King City where the chartered trip had originated. By returning the group to North Bay, Luxury operated in contravention of the terms of their operating licence.

Luxury's extra-provincial operating licence reads as follows:

For the transportation of passengers on a chartered trip from points in the Regional Municipalities of Peel, Durham, York, Halton and Niagara and the Cities of Toronto and Hamilton to the Ontario/Manitoba, Ontario/Québec and **Ontario/U.S.A. border crossings** for furtherance to points as authorized by the relevant jurisdiction and for the **return of the same passengers on the same chartered trip to point of origin.**

PROVIDED THAT there shall be **no pick-up or discharge of passengers except at point of origin.** (Emphasis added).

All extra-provincial operating licences issued by the Board state……"and for the **return of the same passengers on the same chartered trip to point of origin."** By doing so, the Board ensured that it was a round-trip charter and not a one-way chartered trip. The group had to be returned to the point where the chartered trip originated.

A further condition in all extra-provincial operating licences state….. "Provided that there shall be no pick-up or discharge of passengers except at point of origin." The Board ensured that all extra-provincial operating licences would originate and end up at the same point to avoid any confusion.

In further correspondence to the Board, Luxury did admit these errors and assured the Board that it would never happen again.

The Board ordered Luxury to stop any further contraventions <u>with a warning that any further violations of the *Public Vehicles Act/Motor Vehicle Transport Act* may result in Luxury's operating licences being suspended or cancelled.</u>