



MOTOR CARRIER FACTORS GROUP

**Fatal Motorcoach Collision
Bronx County, NY; 03/12/2011**

HWY-11-MH-005
(20 Pages)



NATIONAL TRANSPORTATION SAFETY BOARD

OFFICE OF HIGHWAY SAFETY

WASHINGTON, D.C. 20594

MOTOR CARRIER FACTORS GROUP FACTUAL REPORT OF INVESTIGATION

A. ACCIDENT

LOCATION: Interstate 95 (I-95) New England Thruway, at Mile Marker 3.2, in New York, Bronx County, New York
VEHICLE 1: 1999 Prevost H3-45 56-Passenger Motorcoach
OPERATOR: World Wide Travel of Greater New York Ltd.
DATE: March 12, 2011
TIME: Approximately 5:37 a.m. EST

NTSB #: **HWY-11-MH-005**

B. MOTOR CARRIER FACTORS GROUP

Gary Van Etten
Group Chairman
NTSB
1515 W.190th St., Suite 555
Gardena, CA 90248
Ph. 310-380-5459
Cell 310-844-5942
Fax 310-380-5460
vanettg@ntsb.gov

Mr. Christopher Muldoon
Party Member
World Wide Tours of Greater New York
33 Second Ave.
Brooklyn, New York 11215
Bus. 718-381-1775
Cell 917-270-1257
mail@longislandtransitny.com

C. DETAILS OF INVESTIGATION

The following motor carrier areas are discussed in this report:

- 1. The General Business Operations of World Wide Travel of Greater New York
 - 1.1 - Great Escapes Tours & Travel LTD Company Information
 - 1.2 – World Wide Travel of Greater New York Company Information
 - 1.3 - Company Application to DoD to Transport Military Personnel
 - 1.4 – World Wide Post-Accident Compliance Review
 - 1.5.- Hiring Process
 - 1.6.- Vehicle Maintenance Program
 - 1.6.1 – NY Bus Inspection Program
 - 1.6.2 - NY Inspection Procedures and Criteria
 - 1.7. Drug and Alcohol Program
- 2. Driver Information
 - 2.1. - Driver’s Interview
 - 2.2. - Driver’s Employment History
 - 2.3. – Driver’s License Record
 - 2.3.1 – Pre-Driver License Issuance Driving History
 - 2.3.2 – Post-Driver License Issuance Driving History
 - 2.3.3 – License\Privilege to Drive Suspension History
 - 2.4. Hours of Service Compliance
- 3. Casino Transportation Information

1. General Business Operations

World Wide Travel of Greater New York began in 1989 as a travel agency, with a transportation component that included one bus. They applied to the FMCSA for operating authority and were assigned a USDOT #782392 and an MC #34976. This company operated a tour charter business in the greater New England area and contracted with the Mohegan Sun Casino in October 2010. In 1998 they opened a separate company, World Wide Tours that acted as the travel agent for World Wide Travel of Greater New York. In October 1999 World Wide was subject to the first of four Compliance Reviews. The result of the first review was that they received a “Conditional” rating. In the two subsequent reviews in 2007 and 2008 they received “Satisfactory” ratings. In the post-accident Compliance Review they received an “Unsatisfactory” rating (See section 1.4).

In 2001¹ the owners decided to expand their business again by adding another transportation component and created Great Escapes Tours & Travel LTD. They applied to the Federal Motor Carrier Safety Administration (FMCSA) for separate operating authority and were assigned a USDOT #1369209 and an MC #523612. Both companies operate from the same terminal in Brooklyn, NY

¹ According to the New York Department of State, Division of Corporations. See Attachment #1 – New York Department of Corporations – Great Escapes Information

1.1 - Great Escapes Tours & Travel LTD Company Information.

The FMCSA Motor Carrier Management Information System (MCMIS) on the SAFER web site² indicates the following for Great Escapes:

- The company is a for-hire interstate passenger transportation company
- They operate 35 motor coaches, however the company indicates that Great Escapes operates 30 motorcoaches and World Wide operates 5 motorcoaches³
- They employ 95 drivers (drivers are shared by Great Escapes and World Wide with 35 drivers employed full-time and 60 employed part-time).
- The most recent MCS-150 Form indicates the company accumulated 1.6 million miles in 2009.
- In the 24 months prior to 3/17/2001 the company was subject to
 - 17 Vehicle roadside inspections with an out-of-service rate of 11.8 percent as compared to a national average of 20.72 per cent.
 - 34 Driver roadside inspections with an out-of-service rate of 2.9 percent as compared to a national average of 5.51 percent.
 - 1 injury crash and no fatal crashes
- The company's most recent FMCSA Compliance Review was on September 30, 2008 in which they received a "Satisfactory" rating. In 2007 the company received a "Satisfactory" rating in that year's Compliance review.⁴

1.2 – World Wide Travel of Greater New York Company Information⁵

The FMCSA Motor Carrier Management Information System (MCMIS) on the SAFER web site indicates the following for World Wide Travel of Greater New York:

- The company is a for-hire authorized interstate passenger transportation company.
- They operate 35 motorcoaches⁶ (however the company indicates they operate 5 motorcoaches),
- They employ 95 Drivers (shared with Great Escapes).
- The most recent MCS-150 Form indicates the company accumulated 420,000 miles in 2010.⁷
- In the 24 months prior to 3/17/2001 the company was subject to
 - 16 Vehicle roadside inspections with an out-of-service rate of 6.2 percent as compared to a national average of 20.72 per cent.
 - 27 Driver roadside inspections with an out-of-service rate of 0 percent as compared to a national average of 5.51 percent.⁸
 - 2 injury crash and no fatal crashes

² www.SAFERSYS.org. See Attachment #2 – Great Escapes SAFER Information, SMS Information, Company Profile

³ The MCMIS data in the SAFER web site indicates 35 motorcoaches for both companies.

⁴ See Attachment #3 – Great Escapes 2007 and 2008 Compliance Reviews

⁵ See Attachment #4 – World Wide SAFER Information, SMS Information, and Carrier Profile.

⁶ All motorcoaches for both companies are Prevost, model H3-45, and were purchased between 1998 and 2009

⁷ See Attachment #5 – MC-150 Form and Operating Authority Authorization

⁸ A review of the roadside inspection data indicates that none of the cited violations for Great Escapes and World Wide involved the accident vehicle

- The company's most recent (prior to the accident) FMCSA Compliance Review on September 30, 2008 in which they received a "Satisfactory" rating. They also received "Satisfactory rating in their 1999 and 2007 Compliance Review ratings."⁹
- The company operates a commuter run¹⁰ and charters (school trips in the summer).
- The company operates lines runs between New York City and Boston, MA, New York City and Washington D.C. and from New York City to the Mohegan Sun Casino, in Uncasville, CT.

1.3 – Company Application to DoD to Transport Military Personnel

In 2009 World Wide applied to the Department of Defense (DoD) Military Traffic Management Command (MTMC) for authority to transport military personnel. MCMT will not allow any company to officially transport military personnel until its own inspectors have conducted on-site visits.¹¹ The MTMC inspections also review carriers for performance, reliability and responsiveness. Not all coach companies apply for the right to bid on military transport; those who do are given a rating by MTMC on a scale of 1 (the best) to 5 (the worst). Carriers rated from 1 to 3 are approved to bid on military work. A list of approved (bus) carriers is online at MTMC's website.

Carriers Seeking DoD Approval¹²

To be considered for the DoD transportation of passengers program, carriers must have one year of passenger transportation experience and successfully pass a pre-qualification safety inspection. Participating carriers must also undergo rigorous onsite safety inspections that include facility, terminal, and equipment every two years per the Passenger Safety Inspection Program. Carriers will be subject to unscheduled safety inspections to monitor continued compliance.

⁹ See Attachment #6 – World Wide 1999, 2007 and 2008 Compliance Reviews. **Safety ratings:** (1) **Satisfactory** safety rating means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in §385.5. (2) **Conditional** safety rating means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in §385.5 (a) through (k). (3) **Unsatisfactory** safety rating means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in §385.5 (a) through (k). (4) **Un-rated** carrier means that a safety rating has not been assigned to the motor carrier by the FMCSA.

¹⁰ One line run is a commuter line between a Park and Ride lot in Glen Cove, NY to Manhattan, NY (booked under the name Long Island Transit – not a motor carrier)

¹¹ See DTR 4500.9R, Part 1, Chapter 104 – Buses - Military Bus Program

The Military Bus Program ensures that commercial bus, van and limousine companies offering charter service provide safe vehicles that consistently meet DOD standards of service. Over 400 carriers participate in the program, offering ground transportation to individual and group DOD passengers, including military movement solicitations and recruit travel. DTMO manages the program through an agreement with carriers that establishes the specific terms, conditions and standards that must be met when providing transportation for DoD passengers. Transportation Coordinators and individuals arranging DoD-sponsored passenger travel must use the DoD approved carrier list to arrange for transportation within their routing authority (<http://www.defensetravel.dod.mil/Docs/BusAgreementPOCs.pdf>) or have the option of using the Groups Operational Passenger System (GOPAX).

¹² See <http://www.defensetravel.DoD.mil/site/busApp.cfm>

Requirements

- Signed Military Bus Agreement
- Copy of Operating Authority
- Certification of Insurance
- Signed copies of Statement of Common Financial or Administrative Control Sheet and Drug\Alcohol-Free Workplace
- Standard Carrier Alpha Code
- Certified financial statement
- Register with the Central Contractor Registration, www.ccr.gov or (888) 227-2423
- Fitness rating must be satisfactory
- Prequalification inspection of equipment and facilities
- Copy of carrier personnel and complete inventory list of equipment
- Signed Military Bus Agreement

World Wide was inspected on 07/21/2009 by Consolidated Safety Services Inc., the DoD contractor to conduct safety audits on bus companies applying to the DoD for authority. World Wide scored an overall rating of “4” – “Conditional”, and was denied authority by the DoD.¹³

1.4 Post-Accident Compliance Review¹⁴

The FMCSA conducted a post-accident Compliance Review (CR) on World Wide that was finalized on 4/07/2011. Great Escapes was only tangentially involved in the CR because the two companies shared vehicles and drivers. Great Escapes was not rated in the CR. The CR resulted in an “Unsatisfactory” rating in Factor 3 – Operational and in Factor 6 – Accident Rate, with an overall rating of “Unsatisfactory” for World Wide.

Factor 6 received an “Unsatisfactory” rating due to an accident rate of 5.70. The Federal Motor Carrier Safety Regulations (FMCSRs) 49 CFR 385 Appendix B requires an accident rate above 1.2 (per million miles) be rated “Unsatisfactory”.¹⁵

Factor 3 – Operational – includes Parts 392 (Driving a Commercial Vehicle) and 395 (Hours of Service). The majority of the violations recorded in Factor 3 were in Part 395 Hours of Service (395.8 ff - Critical) and were mostly related to the accident driver and his failure to record and submit his driver log records for the entire time he was employed at World Wide.

Other violations noted were found in Part 40 – Drug and Alcohol Testing requirements, Part 382 – Administrative Requirements for the Drug and Alcohol Testing, Part 391 – Documentation of Driver Information, and Part 396 Documentation of Vehicle Maintenance. However, since these violations were not classified as either “Critical” or Acute” they were not included in the calculation of the overall rating.

¹³ See Attachment #7 - Consolidated Safety Systems Safety Audit.

¹⁴ See Attachment #8 - Post-Accident Compliance Review.

¹⁵ During the FMCSA’s CR it was discovered that the carrier had two additional recordable accidents that had not been reported and were then used to compute the accident rate at 5.7.

The following information applies to both companies.

1.5. Hiring Process

The following are the pre-hire requirements:

- Must have a valid Commercial Driver's License with a "P" (passenger endorsement),
- Original Social Security Card or valid Passport
- Must have, at least, 3 years motorcoach driving experience.
- Must successfully pass:
 1. Oral interview
 2. A DOT pre-employment Physical
 3. Pre-employment Drug and Alcohol screen
 4. Company road test¹⁶ with the Safety Manager or experienced driver
 5. A review of the applicants driving history from the NY DMV.

The company is a non-union company. Once hired the drivers receive initial training on company policies, a pamphlet on drug and alcohol testing requirements¹⁷, an hours of service pamphlet¹⁸, and most recently, a pamphlet on the FMCSA CSA program¹⁹. They also must view a 17 minute video on fatigue from the FMCSA and American Bus Association and a video on drug and alcohol use from the National Safety Council. After these initial actions they are required to accompany an experienced driver on a trip. After that they drive on their own. The driver is supplied with company uniforms that they must wear while driving a motorcoach.

Drivers are paid by the trip - \$60 per one-way; \$115 per round trip. Drivers also receive tips from passengers. There is about a 10 per cent turnover rate in drivers each year.

The company is enrolled in the New York DMV's LENS program (License Event Notification System) that allows the carrier to view a driver's record (citations, accidents, and other DMV actions) in real time by logging onto the DMV web site and to also be notified by the DMV when an action, such as a citation or accident, appears on an employee's driving record²⁰. The company has no on-going in-service training program. Drivers are counseled periodically by the Safety Manager in one-on-one discussions that cover various safety issues.

Motorcoach drivers are required by New York State to be specially trained and the company is required to maintain specific procedures. Requirements are found in Article 19A²¹, with special requirements for school bus drivers, monitors, and attendants. According to the Safety

¹⁶ Road test includes an 8 – 10 mile drive on various roadways and conducting a pre-trip inspection of the vehicle.

¹⁷ *Driver Alert! DOT Alcohol and Drug Testing Handbook*, published by Buckley Productions, Mill Valley, CA

¹⁸ *Hours of Service, A Driver's Guide*, published by J.J. Keller Neenah, WI

¹⁹ *CSA the 7 Basics a Driver's Handbook*, published by J.J. Keller, Neenah, WI. CSA = **C**omprehensive **S**afety **A**nalysis, an FMCSA process initiated in December 2010 that improves the FMCSA's ability to identify and intervene with drivers and carriers who are not in compliance with the safety regulations. See www.fmcsa.gov.

²⁰ This is a pay per record program - \$15 to enroll and \$15 per record accessed. The Safety Manager is notified of a driver's action by e-mail.

²¹ See Attachment #9 - Article 19A Requirements. New York Vehicle & Traffic - Article 19-A - (509-A - 509-O) Special Requirements for Bus Drivers. This is a carrier requirement.

Manager the accident company only employs four (4) drivers that require Article 19A training and monitoring for student transportation, however, all motorcoach drivers are required to be 19A qualified and listed with the DMV. The accident driver was listed as being on the carrier's 19A list.

A review of the company's overall safety program revealed the following:

- The company does have a drug and alcohol policy (described in Section 1.7).
- The company does not have a driver handbook.
- The company has no written seatbelt use policy.
- The company has no fatigue management program.
- The company has no written policy on driver hours of service violations.
- The company has no written cell phone policy, although management verbally stresses that drivers should not use their cell phones when driving. Cell phones are not provided to drivers. The accident driver had his personal cell phone with him at the time of the accident. (See Human Performance Group's factual report.)
- Drivers are required to report any and all collisions and "incidences" immediately to the dispatcher. On Wednesday March 9, 2011 the accident driver reported an incident, where the driver thought a passing passenger car had struck the right side of his motorcoach. A close inspection of the vehicle at the end of the trip showed no damage.

At the time of the Safety Board review of the carrier, the Safety Manager indicated that written policies were being developed with the assistance of their insurance company (RLI of Atlanta GA).

1.6. Vehicle Maintenance Program

World Wide operates 5 motorcoaches. They employ 2 full-time "master" mechanics that are experienced and 3 "mechanic helpers", who have less qualifications than the "master" mechanics. The mechanics conduct all the vehicle repairs except transmission replacements; those are conducted by the manufacturer Allison Transmission Corp. The company did not maintain brake inspector qualification files for their mechanics as required by 49 CFR 396.25 and 396.17.

Vehicles are on various preventive maintenance schedules due to the different years of manufacture; some are on a 25,000 mile schedule, some on a 10,000 mile schedule, and some are on an 18,000 mile schedule. In general, the vehicles are well maintained.

1.6.1 – NY Bus Inspection Program

All buses subject to inspection by the New York State Department of Transportation are required to be inspected at least every six months.²² The operator is

²² 49 CFR 396.17 – Requires annual vehicle inspections

responsible for providing an adequate inspection facility as the NYSDOT does not operate facilities for the inspection of vehicles.²³

Vehicles subject to NYSDOT inspection include the following:

1. Vehicles transporting passengers under the age of 21 years, to and from schools, for hire, or owned and/or operated by school districts or any public or private school. Also included are vehicles used to transport passengers under the age of 21 years between school programs and community residences.
2. Vehicles operated in New York State, pursuant to or requiring a certificate or permit for the transportation of passengers, the U.S. Department of Transportation (USDOT) or the Commissioner of NYSDOT.
3. All buses operated pursuant to or requiring regulatory authority from any city that has adopted an ordinance, local law or charter to regulate a franchise bus line operation pursuant to the New York State Transportation Law.
4. Double-decker sightseeing buses regulated by the New York City Office of Community Affairs.

1.6.2 - NY Inspection Procedures and Criteria

Vehicles are inspected at an operator provided facility. NYSDOT Motor Vehicle Inspectors (MVIs) contact the vehicle operator in advance of the inspection certificate expiration, to arrange for a date for the next inspection of the vehicles. Usually, the MVI will go to the operator's facility and conduct the inspection of the vehicles that were previously scheduled for inspection with the operator. Normally an inspection will take approximately 60-90 minutes to complete, depending on the size/type of vehicle. Initial inspections of new vehicles take somewhat longer. In addition to the actual vehicle inspection, required maintenance records, preventive maintenance program and driver inspection reports are also checked.

Inspections are conducted based on the requirements contained in Sections 720 and 721 of the New York State Transportation Regulations. Contained in these regulations are the passenger vehicle's Out of Service (OOS) Criteria. Discovered defects that meet the OOS criteria, will result in the following actions depending on the class of defect discovered:²⁴

- "A" rated defect - vehicle is placed Out of Service, no inspection certificate is issued until the defect(s) is repaired and an inspection is conducted;
- "B" rated defect - vehicle is issued an inspection certificate but defect must be corrected prior to carrying passengers;

²³ See New York Code Title 17 Parts 720 through 723. Also refer to <https://www.nysdot.gov/divisions/operating/oss/bus-repository/busregs.pdf> - NY DOT Regulations and <https://www.nysdot.gov/divisions/operating/oss/bus-repository/oos.pdf> - Inspection Criteria

²⁴ Refer to <https://www.nysdot.gov/divisions/operating/oss/bus-repository/oos.pdf> - Out-of-Service Criteria

- "C" rated defect - vehicle is issued an inspection certificate but defect must be corrected within 15 days from the date of the original inspection.

The World Wide and Great Escapes vehicles were so inspected every 6 months with the following vehicle OOS results as compared to the New York State average of 11.9%²⁵:

<u>World Wide</u>		<u>Great Escapes</u>	
FY 2005 - 2006	14.3%		N/A
FY 2006 – 2007	8.3%		42.9%
FY 2007 – 2008	31.8%		10.0%
FY 2008 – 2009	6.7%		2.8%
FY 2009 – 2010	0%		0%

Drivers are required to conduct pre-trip and post-trip inspections of their vehicles per 49 CFR 396.11 and 396.13. The Safety Board obtained Driver Vehicle Inspection Reports (DVIR) for the accident vehicle for March 2011 indicating that they were completed on a regular basis.

According to the company head mechanic there was no pre-collision mechanical or body damage to the accident motorcoach. (*See the Vehicle Group’s factual report for further information.*)

1.7. Drug and Alcohol Program

The company contracts with the Health Corp. for their DOT Physicals²⁶ annually, and for their drug and alcohol testing. Drivers are required, by company policy, to receive a DOT physical annually. All drivers are included in the pool of persons eligible for testing. The company meets its 50 percent of employees for testing each year for drugs and 10 percent of employees for testing each year requirement per 49 CFR 382.305. The company is notified (via the Safety Manager) periodically throughout the year by Health Corp of the employees that have been randomly selected for testing. Selected employees are notified as soon as practical and then must immediately report to Health Corp for screening. The company has a “no tolerance” policy and those testing “positive” are terminated immediately. The company fired two employees in 2010 for testing positive. These are the only employees so fired in 5 years. The company has no employee assistance program (EAP).²⁷ The Safety Manager and two other management people were qualified for Reasonable Suspicion evaluation of employees to require drug and/or alcohol testing.²⁸

²⁵ See Attachment #10 - NY DOT Inspections of World Wide and Great Escapes Vehicles

²⁶ See Title 49 Code of Federal Regulations Section 391.45 (49 CFR 391.45). Federal requirements specify that drivers are to be examined every 24 months.

²⁷ In the post-accident CR, the FMCSA noted a violation of 382.605 for failing to refer an employee who had been fired in December 2010 for a positive random drug test to a Substance Abuse Professional for education and/or treatment.

²⁸ See 49 CFR 393.307

The accident driver was employed by the carrier approximately four months prior to the accident and had only been subject to a pre-employment drug and alcohol screen in the time he had been employed. Its results were negative.

The driver was required to undergo a post-accident alcohol and drug test immediately after the accident.²⁹ All tests were negative.³⁰ (See interview with accident driver in this report and in the Human Performance Group's factual report.)

2. Driver Information

2.1. Driver's Interview

The driver was interviewed by members of the Safety Board on Tuesday March 15 at the motor carrier's terminal. The following is a summary of that interview. (*See Human Performance Group's factual report for a fuller account of that interview.*)

The driver indicated he had been on the casino run for several months. There are two separate pick-up routes within the City of New York and after those pickup spots the highway route to the casino is the same. He traveled those routes every day.

The night before that accident (Friday March 11) the driver stated that he awoke after sleeping at home from about 11:00 am to 4:30 pm. He said he always sleeps well at home. He arrived at work about 6:30 pm. He started his run to the casino about 7:30 pm and was about 10 minutes late arriving at 7:40 pm instead of 7:30 pm. He estimated his arrival at the casino at about 10:30 pm.

He arrived at the parking area a few minutes later, but was called back to the casino by an employee, indicating that a "money book" had been lost. He arrived back at the casino and the book was found shortly afterward. He returned to the parking area and he rested in the bus between 11:00 pm and 3:20 am when he was called by the casino employee that it was time to depart. He returned to the casino, loaded the bus passengers and departed the casino at about 3:45 am. The driver said he was unaware of the driver's lounge inside the casino and therefore had never used it.

He indicated that the return trip was uneventful. He said he was southbound on I-95 in the center lane of a three-lane highway when a truck-semitrailer came next to him in the far left lane. The truck drifted over into his lane where the right rear corner of the truck came within close proximity (a few inches) to the left front of the motorcoach. He thought the truck may have struck the motorcoach. This caused him to move quickly to his right and into the shoulder. He felt the motorcoach vibrate and the next thing he knew the vehicle was on its side. He was able to get out from underneath the motorcoach and began to help others get out of the coach. He also was able to use a person's (unknown) cell phone and spoke to a 9-1-1 operator and asked for help.

²⁹ See 49 CFR 393.303

³⁰ See Attachment #11 – Driver Toxicology Test Results

When the police arrived he felt a police officer trying to put something in his mouth and asking him to blow into it. Since his ribs were hurting him, he was unable to comply, until on the third or fourth try, the police officer said OK. The Safety Board confirmed with the New York Police Department that one of their officers administered a preliminary breath test using a preliminary breath test unit. The result of that test was negative.

2.2. Driver's Employment History

The driver's Qualification Files³¹ were reviewed by the Safety Board and copies were obtained of its content.³²

The accident driver was hired by World Wide on November 17, 2010 and began work on November 23, 2010 after undergoing the company's pre-employment screening process. His prior employment included:

- Working as a helper and driver of a hearse and limousine for a funeral home in Brooklyn, NY between August 1989 and March 2006. (This was not continuous employment as the driver was incarcerated on two separate occasions.)
- Working as a motorcoach driver for Coach USA (DBA - Community Coach Inc.) in Paramus, NJ from March 2006 to January 2007. On August 21, 2006 he was added to the company's 19A list. He worked full-time from May 20, 2006 to February 5, 2007. From February 5, 2007 to December 1, 2007 he worked part-time. He was fired from this job due to too many call-ins (not coming to work).³³
- He was employed part-time by the NY Metropolitan Transit Agency from February 5, 2007 to February 20, 2007. He was fired from this job because he failed to report two criminal convictions on his job application.³⁴
- He was unemployed³⁵ between June 2007 and November 2010 due to his mother's illness and his need to provide care for her.

2.3. Driver's License Record³⁶

At the time of the accident the driver held a New York Class "B" Commercial Driver's License (CDL) with a "P" (passenger) endorsement and no restrictions that was due to expire in December 2015. He held a medical certificate that was issued on November 18, 2010 and was due to expire on November 2012.³⁷ However, the company

³¹ Driver Qualification Files are required by 49 CFR 391.51. The Safety Board reviewed the Driver Qualification Files for the driver's employers; Community Coach (Coach USA), New York Metropolitan Transit Agency, and World Wide Tours of Greater New York.

³² See Attachments #12 - World Wide Driver's Qualification File

³³ See Attachment #13 - Coach USA\Community Bus Driver Qualification File

³⁴ See Attachment #14 - NY MTA Job Application File

³⁵ The Safety Board has no record of employment for the driver between December 2007 and October 2010.

³⁶ See Attachment #15 - Driver's License Records

³⁷ 49 CFR 391.45 requires a medical review every 24 months.

required annual physical examinations and his next scheduled examination was November 2011.

2.3.1 – Pre-Driver License Issuance Driving History

- The accident driver was 17-years-old when he was caught driving without a license and was issued a citation on September 8, 1987. On November 16, 1990 he received two citations for (1) no driver's license and (2) non-use of seatbelts. The name he gave to the police both times was a different first name (a nickname) than his given first name.
- The three violations resulted in suspensions because the driver failed to appear in court to satisfy the judgments. However, the driver would eventually go to court but would re-schedule another formal court appearance, but continually failed to return when promised. Each time the driver appeared to re-schedule another court appearance his driver's history was modified to show the suspensions as 'cleared'. When the driver failed to appear again it resulted in another suspension of his driving privilege. Therefore, his driving record showed multiple suspensions with different case numbers, but was actually for the same offenses.
- On July 3, 1994 the driver was issued a third citation for driving without a driver's license. The driver failed to appear in court for this violation and his license was suspended on October 21, 1994 but was actually cleared on October 28, 1994 when he paid the fine (\$50.00). In January 1995 the court issued three suspensions that remained "Open" and were in effect until March of 2011 when the accident occurred.
- At that time the media became aware of the driver's use of a name other than the one on his CDL and notified the DMV. The DMV was able to use the information supplied by the media to match the two driving histories. The previous suspensions were administratively cleared and a new suspension was issued under the driver's name on his CDL that covered both drivers' histories.
- On February 28, 1995 he used his given first name when he applied for a driver's license. He was issued a permit. When the driver applied for a driver's license in 1995 the DMV was unable to match the information to the previous name and address used because of differences in name and address. Therefore the suspensions in effect at the time were not applied to the driver's history at the time of application.

2.3.2 – Post-Driver License Issuance Driving History

- On February 28, 1995 the accident driver applied for a New York Class "D" (passenger car) driver's license and was issued a driver's permit³⁸

³⁸ All drivers, regardless of age, who have not previously held a driver's license for the class of vehicle they intend to driver, must first obtain a 'learner's permit'. The permit is valid for two years. A person over the age of 18 years may apply for a full driver's license immediately after taking the required tests and procedures.

under his given name. On March 2, 1995 he applied for and was issued a full Class “D” license.

- On September 29, 1995 the driver received a citation for ‘Improper Passing’ (not in a CMV). He failed to appear in court and his license was suspended on December 5, 1995 until June 13, 1996.
- On January 5, 1996 he was issued a citation for ‘Failure to Stop at Stop Sign’ (not in a CMV). He failed to appear in court and his license was suspended on March 12, 1996 until February 11, 1997 when he paid the fine.
- On March 15, 1996 he was issued a citation for ‘Disobeying a Traffic Sign’ and paid a \$40 fine on April 25, 1996.
- On June 22, 1996 he applied for and was issued a permit for a Class “B” license.³⁹ The full Class “B” license was issued on June 25, 1996 with a restriction for 7 passengers or less (removed on November 18, 1996) and a “P” endorsement.
- On October 28, 1996 he was issued a citation for ‘Unregistered Motor Vehicle’ and “Vehicle Inspection Expired for 60 Days”.⁴⁰ He failed to appear in court. His license was suspended January 3, 1997 and cleared on January 14, 1997 when he paid a \$50 fine.
- On October 28, 1996 he was issued a citation for “Driving Without Insurance”. He failed to appear in court and his license was revoked on February 11, 1997. It was reinstated on November 10, 2003.
- On December 28, 1996 his license was suspended for “Failure to Pay Child Support”
- On February 28, 1997 his license changed from Class “B” license to a Class “D” license and the license status remained revoked.
- On June 4, 2003 he was issued a citation for “Driving Without a License”. He paid the fine of \$150 on July 11, 2003.
- On October 6, 2003 the driver voluntarily surrendered his license to the DMV and was issued a non-driver identification card.⁴¹
- On November 10, 2003 the driver petitioned to have his license revocation removed. The request was granted and he was issued a Class “D” permit on November 14, 2003.
- On January 6, 2004 he received his full Class “D” license.
- On March 9, 2006 he applied for and was issued a Class “B” CDL Permit with no restrictions and a “P” endorsement.
 - On July 19, 2006 he completed his testing for the Class “B” CDL but did not pay the required fee.
 - On July 31, 2006 his was issued a full Class “B” CDL with a restriction of 7 passengers or less and a “P” endorsement.

³⁹ A Class “B” license in a Commercial Driver’s License (CDL) and permits the driver to operate a any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR. In order to transport passengers a “P” endorsement is required. The driver had taken the road test for the Class “B” license on August 28, 1995 but did not convert to the Class “B” license until June 1996.

⁴⁰ Vehicles are required to be safety inspection annually and emissions control inspected biennially per New York Vehicle & Traffic Law Title 3 Article 5 section 301.

⁴¹ In order to receive a new driver’s license or identification card, the applicant must surrender any license or identification in their possession before a new card or license will be issued.

- On November 8, 2006 he had the restriction for 7 passengers or less removed.
- On May 15, 2007 his license changed for Class “B” to Class “D”. This appears to have been a result of two ‘out-of-state’ suspensions of his driving privilege due to court orders for failure to pay child support on April 11, 2007. This was while he was still working for Coach USA.
- On September 10, 2009 he was issued a full Class “B” CDL with a “P” endorsement that was renewed on February 10, 2010 which he held at the time of the accident.
- On Marcy 17, 2011 his license was again suspended due to the on-going investigation that resulted from the accident on March 12, 2011.

2.3.3 – License\Privilege to Drive Suspension History

The following information was obtained from the driver’s Commercial Driver License Information System (CDLIS) dated March 15, 2011 and from the New York DMV records. The suspensions listed are for the driver under both names. Pre-April 1995 records are for the driver prior to receiving his driver’s license. Post-April 1995 records are after he received his Class “D” and subsequent driver’s licenses.

<u>Date Issued</u>	<u>Reason</u>	<u>Dated Reinstated</u>
11/30/1987	Failure to Appear	08/29/1994
03/29/1989	Failure to Appear (2 Counts)	08/29/1994
06/20/1989	Failure to Appear –Rescheduled (2 Counts)	08/29/1994
09/29/1990	Failure to Appear (2 Counts)	08/29/1994
01/22/1991	Failure to Appear (2 Counts)	08/29/1994
10/21/1994	Failure to Appear – Paid Fine	10/28/1994
01/14/1995	Failure to Appear	03/17/2011
01/22/1995	Failure to Appear (2 counts)	03/17/2011
02/04/1995	Failed to Answer Summons	11/01/1993
12/05/1995	Failure to Appear	06/13/1996
12/19/1995	Failure to Appear	01/19/1996
03/12/1996	Failure to Appear	02/11/2003
12/28/1996	Failure to Pay Child Support	11/06/2003
01/03/1997	Failure to Appear – Paid Fine	01/14/1997
01/14/1997	Failure to Appear	02/11/1997
02/11/1997	Failure to Pay Child Support-Paid Fine \$500	11/06/2003
04/11/2007	Failure to Pay Child Support (1 ST Count) Requirements Met	05/08/2007
04/11/2007	Failure to Pay Child Support - (2 nd Count) Requirements met	07/15/2007

2.4. Hours of Service Compliance

Title 49 CFR Part 395 contains the rules for hours of service for interstate commercial vehicle drivers. The regulations for drivers of passenger carrying vehicles limit driving time to 10 hours with no driving after 15 hrs of “on-duty” time. Then the driver must have 8 consecutive hours off-duty before driving again.

Drivers for World Wide are typically scheduled on regular shifts and remain on a shift unless requesting a change. When a driver reports to work he/she receives an envelope with the schedule attached to the face of the envelope that lists the driver's pick-up locations, destination, and arrival times.⁴² On the return trip the driver is required to place the driver's log page for that day⁴³, any receipts (i.e. fuel receipts), and other miscellaneous information in the envelope and return it to the secretary. The secretary's responsibility is to remove the documents from the envelope and separate each document for filing. She reviews the log pages for obvious errors. If errors are found or if she has a question regarding log entries, she consults the dispatcher, who is also an experienced driver, with knowledge of the regulations.

The accident driver was normally scheduled⁴⁴ to drive on the night shift, typically on overnight runs to the Mohegan Sun Casino near Uncasville CT on the Mohegan Indian Reservation. His reporting time varied between 9:00 pm to 11:00 pm. He would normally make two pick-ups in New York City's Chinatown or two pick-up locations in Flushing. From there he would drive to the Casino in Connecticut; a trip of about 126 miles one-way, taking about 2 ½ - 3 hours. He would drop off the passengers and park in a designated bus parking lot, called the "Bear" for 3 – 4 hours. He would then return to the Casino at a designated pick-up time, load the passengers, and drive back to New York to the designated drop-off locations. He would then return to the terminal. The round trip generally took about 12 hours to complete. He would then turn in his envelop and return home.

During the investigation it was determined that during the (approximately) four months of his employment the accident driver had not turned in any log pages, but had retained them at his home. The carrier offered no explanation of how the company had failed to notice his failure to follow the regulations. During the Safety Board's interview with the driver he produced his log books for the later days of November, all of December 2010, all of February, and March 1 – 8, 2011. There were no log books for January or for March 9 - 12, however, the driver had written the date, the company's vehicle number, and pick-up and arrival times on the outside of the envelope flap he received at the beginning of the shift, which he had torn off and retained. These times and locations were not entered into a logbook. He indicated during the interview that (1) it was his practice to write down the trip information on the trip envelop flaps and complete his log at home and (2) it was his understanding that he was not required to turn in his log pages each day for this company, although he had to do so for his previous employment at Coach USA. A review of the driver's Qualification File showed a company form titled "DAILY LOGS" in which was found the following statement:

"I understand that my daily log must be turned in at the end of each day with my work envelope."

⁴² See Attachment #17, page 72

⁴³ If a driver's schedule includes two trips on the same day, then two days of log pages would be returned every other day.

⁴⁴ See Attachment #16 - Driver's Work Schedule.

The driver had signed the document acknowledging his having read it on November 23, 2010. The driver also signed documents acknowledging his having received a copy of the Federal Motor Carrier Regulations (FMCSRs) pocketbook and a copy of the HOURS of SERVICE driver's guide handbook from the company on November 23, 2010. The FMCSR and Hours of Service guide indicated that the driver was required to turn in his logbook pages to the carrier at a minimum of every 13 days.⁴⁵

A review of the driver's logbook pages⁴⁶ revealed the driver generally worked the night shift starting between 6:00 pm and 9:00 pm and returning to the World Wide terminal between 4:00 am and 8:00 am. There were no log entries prior to 11/23/2010. Entries of note were:

1. 11/23/2010 – Log page entries incomplete.
2. 11/24 thru 27/2010 – Drop off and some driving times not recorded
3. 12/15/2010 – Drive time from NYC to Mohegan Casino recorded as 1 ½ hr. (8:45 pm to 9:15 pm).⁴⁷
4. 12/15--16/2010 – The driver violated the HOS regulations between 11:45 pm and 1:15 am – driving after being on-duty for more than 15 hours (49 CFR 395.5(a))
5. 12/16/2010 – The driver continued in violation of the 15-hour rule between 1:45 am and 2:15 am.
6. No driver logs between 12/26/2010 and 01/13/2010⁴⁸
7. 02/04/2011 – Drive time to NYC from Mohegan Casino recorded as 1 ¼ hr. (6:45 am to 8:00 am) (Ave. speed 100 mph)
8. 02/11 to 02/12 – Employer's schedule shows the driver on a trip to the Mohegan sun Casino. The driver's log shows him "off-duty". False Log.
9. 02/15--16/2011 – Drive time NYC to Mohegan Casino recorded as 1 ½ hr. (11:15 pm to 12:45 am) (Ave. speed 84 mph)
10. 02/18/2011 – (1) The driver was in violation of the 10-hr rule (395.5(a)(1)) from 4:45 pm to 5:00 pm and (2) from 5:30 pm to 6:15 pm and (3) from 6:45 pm to 7:15 pm and (4) in violation of the 15-hr rule (395.5(a)(2)) between 7:00 pm and 7:15 pm)
11. 02/18/2011 – The driver logged at trip from NYC to Rochester NY – a distance of 345 miles and a PCMiler estimated travel time of 5:35 hrs. The driver logged continual driving time from 8:15 am to 5:00 pm – a total of 8 ¾ hrs.
12. 02/20/2011 – The driver logged the return trip from Rochester to NYC as 7 ¼ hrs. between 1:00 pm and 8:15 pm
13. 02/22--23/2011 – Drive time to Mohegan Casino from NYC recorded as 1 ¼ hrs from 11:45 pm to 12:45 am. (Ave. speed 100 mph)
14. 02/23—24/2011 – Drive time to Mohegan Casino from NYC recorded as 1 ¼ hrs from 11:00 pm to 12:15 am. (Ave. speed 100 mph)

⁴⁵ 49 CFR 395.8(i)

⁴⁶ See Attachments #17 - Driver's Handwritten Logs and Attachment #18 - Recreated logs.

⁴⁷ PCMiler lists the distance between NYC and Uncasville (Mohegan Casino) as 126 miles with a drive time of 2:09 hours. See Attachment #19. In order to drive 126 miles in 1 ½ hours the driver would have to maintain an average speed of 84 miles per hour. The driver recorded a 2-hour drive time between NYC and the Casino in most of his entries. Some recorded travel times are over 2 hours, but can be explained by delays in traffic or weather.

⁴⁸ The driver was scheduled to work those days except for 1/7 and 1/13. He failed to supply logs for all these days.

15. 03/04—5/2011 – The driver was in violation of the 10-hr. rule from 11:30 pm to 12:30 am and both the 10-hr. rule and 15-hr. rule from 12:45 am to 1:15 am.

The Safety Board received the company’s computerized schedule for the accident driver for January, February, and March on May 4, 2011. The schedule indicated that in the 70 days up to and including the day of the crash, the driver:

- Worked 46 night shifts of approximately 12 hours each. Those shifts generally began between 6:15 pm and 9:30 pm and ended between 6:30 am and 9:00 am the next day.
- Worked 2 days or “swing” shifts (i.e., inverted from his normal schedule)
 - On 1/31, he drove to Cambridge, MA beginning at 4:30 am and returned at 11:00 pm
 - On 3/4, he drove to Mohegan Sun beginning at 1:15 pm and returned at 1:30 am
- Worked one multi-day trip to Rochester, NY beginning at 4:15 am on 2/18 and returning 11:55 pm on 2/20 – a contracted trip for United Coaches Inc. through World Wide.⁴⁹
- Had 18 “days off” of at least 24 hrs.
- Had no more than 6 continuous days “on” without a day “off”

The driver’s handwritten logs also contained numerous violations of logbook completion requirements (form and manner) found in 395.8

A quick review of the other company drivers suggested that they had turned in their log pages as required.

Federal regulations require the carrier to maintain records of part-time driver’s hours of service⁵⁰ for any other paid job they have; the carrier indicated they did not keep any such records.

3. Casino Transportation Information

The Casino contracts with ticket agents and transportation companies to provide service to the casino. There are two types of contracts awarded; transportation for bus service and ticket agent contract who sell the tickets for transportation and other forms of trip packages at the casino. Contracts are bid once per year and in the case of the World Wide contract is in effect for three years. The World Wide contract pays the company \$665 per trip.

One of the contracts for the transportation service was awarded to World Wide.⁵¹ The ticket agent contract was awarded to Sunflower Express in New York City (Chinatown). The Safety Board interviewed Mr. Michael Yu, manager of Sunflower. He said that the casino published a pick-up and delivery schedule and locations. He employs 12 ticket sellers, all on a

⁴⁹ See Attachment #20 - United Coaches Inc. Trip and Company Information

⁵⁰ See 49 CFR 395.2 – Definition of terms – “On Duty Time” item #9.

⁵¹ See Attachment #21 - World Wide – Mohegan Sun Casino Agreement. Other transportation companies were also awarded contracts on a “bid” basis to operate on other routes from different parts of NYC.

part-time basis. Each ticket seller is assigned a pickup time and location each day. His agents stand on the sidewalks at the pickup locations and sell tickets. Tickets may also be sold over the internet or at the Sunflower office. At the scheduled time a motorcoach arrives and those who have purchased tickets are loaded onto the bus and given assigned seats. The ticket agent accompanies the passengers to the casino. World Wide said that they make 14 trips per day to the casino.

When the motorcoach arrives passengers are greeted by an employee of the casino who checks the tickets and provides special offers to those who have purchased them. The motorcoach driver is given a voucher for a meal in the casino restaurants. The accident driver, said he usually eat shrimp fried rice and apple juice.

At the scheduled return time, usually about 4 – 5 hours later, the motorcoach returns and those passengers returning at that time get on the motorcoach. The casino greeter ‘swipes’ player cards as they enter the bus recording their activity while inside the casino. The departure time is noted by company and bus number. The loading and unloading area is monitored by close circuit television and a permanent record is kept. The NTSB investigators have obtained a copy of the times the accident driver was at the casino.⁵²

Passengers may remain at the casino for up to three days on the round-trip ticket they purchase from sunflower.

Gary Van Etten
Sr. Transportation Specialist

//////////////////////////////////////**END of REPORT**//////////////////////////////////////

Attachments

- Attachment #1 – New York Department of Corporations – Great Escapes Information
- Attachment #2 – Great Escapes SAFER Information, SMS Information, and Company Profile
- Attachment #3 – Great Escapes 2007 and 2008 Compliance Reviews
- Attachment #4 – World Wide SAFER Information, SMS Information and Company Profile
- Attachment #5 – World Wide MC-150 Form and Operating Authority Authorization
- Attachment #6 – World Wide 1999, 2007, and 2008 Compliance Reviews
- Attachment #7 – Consolidated Safety Systems Safety Audit
- Attachment #8 – Post-Accident Compliance Review
- Attachment #9 – Article 19A Information
- Attachment #10 – New York Inspection of Great Escapes and World Wide Vehicles
- Attachment #11 – Driver’s Toxicology Test Results
- Attachment #12 – World Wide Driver’s Qualification File
- Attachment #13 – Coach USA\Community Coach Inc. Driver Qualification File
- Attachment #14 – New York MTA Driver’s Job Application File

⁵² See Attachment #22 – Bus Arrival and Departure Times

Attachment #15 – Driver’s License Record

Attachment #16 – Driver’s Work Schedule January 01 Through March 12, 2011

Attachment #17 – Driver Handwritten Logs

Attachment #18 – Driver Re-Created Logs

Attachment #19 – PC Miler Data

Attachment #20 – World Wide – United Coach Inc. Trip Information and United Coach Inc. SAFER Information

Attachment #21 – World Wide – Mohegan Sun Casino Transportation Information

Attachment #22 – World Wide Bus Arrival and Departure Times