

**CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS**

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DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

GRAY LINE NEW YORK TOURS INC.
1430 Broadway
New York, N.Y. 10018

Respondent.

CONSENT ORDER

Violation No. LL 5143298

**License No. 1318996
(Sight-Seeing Buses)**

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WHEREAS, Gray Line New York Tours ("Respondent") is a domestic business corporation licensed by the New York City Department of Consumer Affairs ("the Department") since 2009 to operate Sight-Seeing buses in the City of New York; and

WHEREAS, on July 1, 2011, Respondent held licenses issued by the Department to operate a fleet of sixty-nine (69) open-air sight-seeing buses; and

WHEREAS, on July 1, 2011 Respondent maintained a fleet of seventy-one (71) open-air sightseeing buses; and

WHEREAS, section 20-376.1(b) of the Administrative Code of the City of New York ("the Code") requires all open air sight-seeing buses newly licensed on or after June 18, 2010, to be equipped with a "headphone limited sound reproduction system;" and

WHEREAS, Section 20-376.1(c) of the Code requires the operator of a fleet of open-air sight-seeing buses to equip the buses with headphone limited sound reproduction systems according to the following schedule:

- a. By July 1, 2011, no less than ten percent of each fleet;
- b. By July 1, 2012, no less than forty percent of each fleet;
- c. By July 1, 2013, no less than sixty percent of each fleet;

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- d. By July 1, 2014, no less than eighty percent of each fleet;
- e. By July 1, 2015, every open-air sight-seeing bus in each licensee's fleet shall be equipped with a headphone-limited sound reproduction system.

WHEREAS, as of July 1, 2011, Respondent had not equipped the required ten percent of the open-air sight-seeing buses in its fleet -- or eight (8) such buses -- with a headphone-limited sound reproduction system; and

WHEREAS, the Department commenced this proceeding on or about October 11, 2011 alleging that Respondent had violated Section 20-376.1 of the Code; and

WHEREAS, Respondent represents that it equipped each of the following sight-seeing buses with a headphone-limited sound reproduction system on the date stated in the table below:

Bus Number	Date Installed	DMV Plate No.	DCA License No.
71513	11/14/11	44286BA	2242
71605	11/17/11	53911BA	2305
71609	11/17/11	53921BA	2314
71607	11/17/11	53915BA	2307
71610	11/21/11	53917BA	2309
71606	11/23/11	53910BA	2306
71507	11/28/11	44302BA	2236
71612	11/29/11	53922BA	2316

and;

WHEREAS, the parties seek to resolve this proceeding without the need for further litigation.

NOW, THEREFORE, Respondent consents to the entry of the following Order to settle the charges set forth in the Notice of Hearing ("NOH") that commenced this proceeding.

Injunctive Relief

1. Respondent shall comply with all laws and rules applicable to Sight-Seeing bus operators in the City of New York, including, but not limited to, Title 20 of the Code and Title 6 of the Rules of the City of New York.
2. Respondent shall equip each of sight-seeing bus in its fleet with a headphone-limited sound reproduction system in compliance with the schedule set forth in Section 20-376.1(c) of the Code.
3. Respondent shall maintain every required headphone-limited sound reproduction system in working condition while the sight-seeing bus is in operation.
4. Respondent shall ensure that while in operation, the amplified voice of any guide on a sight-seeing bus required to be equipped with a headphone-limited sound reproduction system shall be audible through personal headphones and not otherwise audible.

Inspection

5. Respondent shall make available for inspection on a schedule to be determined by the Department each of the following buses with the DCA License Plate numbers:
 - a. 078 2242
 - b. 078 2305
 - c. 078 2314
 - d. 078 2307
 - e. 078 2309
 - f. 078 2306
 - g. 078 2236
 - h. 078 2316

Fine

Cab V

6. Provided that, upon inspection, the Department confirms that Respondent has equipped each of the sight-seeing buses set forth in paragraph 5 with a headphone-limited sound reproduction system in working condition, Respondent shall pay a fine of **\$229,200** in full settlement of all charges alleged in the NOI according to the following payment schedule: -

- a. **\$76,200** upon execution of Respondent's consent to entry of this order; and
- b. **\$30,560** on or before the 30th day of each of five consecutive months beginning with the first full calendar month after execution of Respondent's consent to entry of this order.

7. If, upon inspection, the Department does not confirm that each of the sight-seeing buses set forth in paragraph 5 is equipped with a headphone-limited sound reproduction system in working condition, the Department, in its sole discretion, shall have the option to vacate this Order and restore the proceeding to the Tribunal's hearing calendar.

Records Disposal – Privacy Concerns

8. Respondent shall dispose of records containing personal identifying information such as social security numbers, driver's license numbers, non-driver identification card numbers, mother's maiden name, financial services account numbers or codes, savings account numbers or codes, checking account numbers or codes, debit card numbers or codes, automated teller machine numbers or codes, electronic serial numbers, and/or personal identification numbers by:

- a. Shredding the records before disposal;
- b. Destroying the personal identifying information contained in the record; and/or

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c. Modifying the record to make the personal identifying information unreadable.

9. Respondent shall immediately notify the Department and the police of any breach of security or unauthorized possession of personal identifying information that compromises the security, confidentiality, or integrity of such information.

10. Respondent shall shorten (truncate) the account information on electronically printed credit and debit card receipts given to consumers. Respondent shall not include more than the last five digits of the credit card number and shall delete the card's expiration date.

11. Nothing in this agreement shall be construed as waiving or abrogating Respondent's responsibilities under federal, state or local law concerning record-keeping or record maintenance.

Consequences of Breach of this Agreement

12. Respondent's failure to comply with paragraph 2 of this Order shall result

a. in a fine of \$750 per day for each bus for each day that such bus required to be equipped with a headphone-limited sound reproduction system is not so equipped; and

b. a suspension of the license each bus required to be equipped with a headphone-limited sound reproduction system is not so equipped for thirty (30) days or until such bus is so equipped, whichever is longer.

13. Respondent's failure to comply with the payment schedule set forth in paragraph 6 of this Order shall result in the suspension of License No. 1319008 until Respondent makes the delinquent payment. Respondent shall be fined \$3,000 per bus for each day it operates a bus in violation of the suspension of its license pursuant to this paragraph.

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Waiver of Appeals

14. Respondent hereby agrees to waive any further right to a hearing and appeal on any of the matters subject to this proceeding, under Title 20, Chapter 1, and Section 20-104 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, §§7801-7806.

Miscellaneous

15. Nothing in this agreement shall be construed to limit in any way the authority of the Department to exercise its enforcement powers under Chapters 1 and 2 of the Code or Chapters 1 and 2 of Title 6 of the Rules of the City of New York.

Agreed to for the Respondent by:

Accepted for the Department of Consumer Affairs by:


Signature Date



3/9/12
Date

Deputy General Counsel

MARK MARUSHKI
Print Name


Alan Katz Date
Attorney for Respondent

Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.