

# Attorney General Eric T. Schneiderman

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## A.G. Schneiderman And U.S. Department Of Justice Announce \$7.5 Million Antitrust Settlement With NYC Tour Bus Operators

*Settlement Remedies Harm To Competition In New York City Hop-On, Hop-Off Bus  
Tour Market; Requires Companies To Pay \$7.5 Million In Illegal Profits*

*Schneiderman: This Agreement Ends A Monopoly That Was Created To Overcharge  
Tourists*

NEW YORK –Attorney General Eric T. Schneiderman and the U.S. Department of Justice today announced that they have reached a settlement with Coach USA Inc., CitySights LLC, and their joint venture, Twin America, LLC, to remedy the loss in competition in the New York City hop-on, hop-off bus tour market that occurred when the defendants combined to form an illegal monopoly. The settlement requires the defendants to relinquish approximately fifty bus stops across Manhattan controlled by City Sights, including highly coveted locations in Times Square and near the Empire State Building. They are also required to disgorge \$7.5 million in profits obtained by operating their joint venture in violation of the antitrust laws between 2009 and 2015.

Attorney General Schneiderman and the Justice Department’s Antitrust Division filed a lawsuit in the U.S. District Court for the Southern District of New York in 2012 alleging that the March 2009 formation of Twin America violated the antitrust laws and resulted in higher prices for hop-on, hop-off bus tours in New York City. Today’s settlement, if approved by a court, resolves the claims alleged in the complaint filed in this case.

“By eliminating the competition between them, the largest operators of New York City’s iconic double-decker tour buses were able to raise prices and deprive city visitors of the benefits of a free and fair market,” said **Attorney General Schneiderman**. “This settlement allows competition to thrive once again, and ensures that these companies did not profit from operating an unlawful and anticompetitive joint venture. I thank the Justice Department’s Antitrust Division for partnering with my office to achieve this resolution for consumers in New York.”

“The formation of Twin America gave Coach and City Sights an unlawful monopoly over the New York City hop-on, hop-off bus tour market and allowed them to immediately increase prices to consumers,” said **Assistant Attorney General Bill Baer of the Department of Justice’s Antitrust Division**. “As a result of the joint efforts of the Antitrust Division and the New York Attorney General, Coach and City Sights will forfeit key bus stop authorizations throughout Manhattan to restore competition and surrender illegal profits they obtained from violating the antitrust laws.”

As alleged in the complaint, prior to the formation of Twin America, Coach, the long-standing market leader through its “Gray Line New York” brand, and City Sights, a firm that launched the “CitySights NY” brand in 2005, accounted for approximately 99 percent of the hop-on, hop-off bus tour market in New York City. Between 2005 and early 2009, the two companies engaged in vigorous head-to-head competition on price and product offerings that directly benefited consumers.

That competition ended in 2009 when Coach and City Sights joined to form a new entity, called “Twin America.” The formation of this joint venture provided Twin America with control over substantially all of the competitively-meaningful bus stops throughout Manhattan, and enabled them to increase hop-on, hop-off bus tour prices by approximately 10 percent. According to the complaint, Coach and its corporate parent, Stagecoach Group plc, had long assumed that combining with Coach’s only meaningful competitor would allow the merged firm to raise prices and communicated this assumption to City Sights during joint venture negotiations. In early 2009, over a period of approximately two months, Coach and City Sights did just that,

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implementing the joint venture and raising prices. The joint venture continues to operate both the Gray Line New York and City Sights NY brands today.

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For more than three years following Twin America's formation, there was no new entry or expansion in the market, and Twin America sustained the early 2009 price increases. Since 2012, although several firms have entered the market, they have been unable to obtain bus stop authorizations from the New York City Department of Transportation ("NYC DOT") at, or sufficiently close to, top attractions and neighborhoods to meaningfully compete with Twin America. Bus stop authorizations are required for hop-on, hop-off operators legally to load and unload passengers. Both Coach and City Sights hold large portfolios of bus stop authorizations covering virtually all of Manhattan's key attractions that the firms received from NYC DOT years ago, and before many locations were at capacity. The formation of Twin America gave them a dominant share of the competitively-meaningful bus stop authorizations in Manhattan.

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The settlement with New York and the Department of Justice requires Twin America to divest all of City Sights' Manhattan bus stop authorizations (roughly half of those held by Twin America) by relinquishing them to NYC DOT, the agency in charge of managing bus stop authorizations in New York City. The relinquished stops include highly-coveted locations such as the areas surrounding Times Square, the Empire State Building, and Battery Park, where rival firms have been chronically unable to obtain competitive bus stop authorizations. By increasing the NYC DOT's inventory of bus stops and freeing up capacity at approximately 50 locations throughout Manhattan, the settlement will significantly ease the most intractable barrier to rivals being able to compete meaningfully with Twin America. The defendants will continue to compete in the market and hold Gray Line New York's bus stop authorizations for its own hop-on, hop-off service.

The settlement also requires the defendants to disgorge \$7.5 million in profits they obtained from the operation of their illegal joint venture, and as a result of their several year effort to forestall antitrust enforcement. This amount is in addition to \$19 million that the defendants had already agreed to pay to a class of consumers to settle related private litigation brought after the filing of the government complaint. The New York Attorney General and the United States determined that the defendants earned profits in excess of \$19 million from their unlawful monopoly and that disgorgement was particularly appropriate on the facts of this case – a consummated merger involving an anticompetitive price increase and deliberate attempts to evade antitrust enforcement. The payment of \$7.5 million in disgorgement will deprive the defendants of ill-gotten profits they retained even after the class settlement, and deter future antitrust law violations.

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Defendants took steps that led to the delay of this action and prolonged their unlawful monopoly position. Shortly after learning about the joint venture in the summer of 2009, the New York Attorney General's office issued subpoenas to investigate the transaction. After receiving the subpoenas, the defendants delayed New York's antitrust investigation by belatedly filing the Twin America transaction with the federal Surface Transportation Board (STB) and asserting, among other things, that as a result of certain minimal interstate operations held by the joint venture, the STB had exclusive jurisdiction to review the transaction. STB approval of the transaction would have precluded antitrust review.

During several years of litigation before the STB, New York submitted filings strongly objecting to the transaction on the basis that it was anticompetitive and that the STB process was being used by the defendants to interfere with antitrust enforcement. The STB ultimately agreed with New York's position, rejecting the joint venture in early 2011 as not in the "public interest," and expressing concern that the STB's "processes may have been manipulated to avoid" antitrust review. The STB affirmed its ruling in early 2012, directing that Coach and City Sights either dissolve the joint venture or terminate the minimal interstate operations that provided the purported basis for exclusive STB jurisdiction. Later that year, the defendants chose to terminate the venture's interstate operations. The New York State Attorney General and the Department of Justice filed their joint lawsuit challenging the transaction in December 2012.

The settlement also requires the defendants to establish antitrust training programs and that defendants will provide the government with advance notice of any future acquisition in the New York City hop-on hop-off bus tour market that is not otherwise reportable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the HSR Act).

The New York Attorney General's office conducted the investigation and litigation of this matter in close coordination with the Antitrust Division of the U.S. Department of Justice, and views the matter as an exemplary case of successful federal and state cooperation.

For the New York Attorney General's office, the investigation and litigation of this matter were

handled by Assistant Attorneys General James Yoon, Matthew Siegel, Jeremy Kasha, and Bureau Chief Eric J. Stock, all of the Antitrust Bureau, as well as Chief Economist Guy Ben-Ishai, Research Director Sumanta Ray, and Executive Deputy Attorney General for Economic Justice Karla G. Sanchez.

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