

Memorandum 04 JAN 14 PM 12:15

OFFICE OF THE SECRETARY
FEDERAL MARITIME COMM

TO : Bryant L. VanBrakle, Secretary DATE: January 13, 2004

FROM : Rebecca F. Dye, Commissioner 

SUBJECT : Petition Numbers P3-03, P5-03, P7-03, P8-03 and P9-03.

On January 13, 2004, I met with Mr. Peter Gatti of the National Industrial Transportation (NIT) League as well as Ms. Karyn Booth and Mr. Nicholas DiMichael with the law firm Thompson Hine at their request to receive their views on the above referenced petitions to the Federal Maritime Commission (FMC). The five petitions request that the Commission take various actions regarding non-vessel operating common carriers (NVOCCs), service contracts, and tariff publication. Ed Lee, my counsel, was also present at the meeting. The NIT League is one of the largest national associations representing companies engaged in the transportation of goods in both domestic and international commerce.

Mr. Gatti stated that his members support the petitions and believe the Commission has the legal authority under section 16 of the Shipping Act of 1984 to grant the relief that the petitioners are requesting. Mr. Gatti reported that the business environment has changed since 1998 including the emergence of a number of large logistic service companies that did not exist in 1998. Mr. DiMichael stated that more and more companies are depending on logistic providers for transportation and supply chain management services. Mr. Gatti also reported that shippers want the entire logistics industry to be able to offer confidential service contracts.

Mr. DiMichael stated that the Commission should first resolve the legal question of whether it has the authority to allow NVOCCs to offer confidential contracts and then initiate a rulemaking to resolve the policy questions surrounding an increase in the use of confidential ocean service contacts. Mr. Gattie stated that allowing NVOCCs to offer confidential contacts will increase competition in the

ocean shipping industry. He also gave me a copy of the Joint Additional Comments of the NIT League, the National Customs Brokers and Forwarders Association of America, and the Transportation Intermediaries Association which had recently been filed with the Commission. The Joint Comments are seven statements of common principles which these three organizations believe should guide the Commission in addressing the petitions.