

# FEDERAL MARITIME COMMISSION

WORLDWIDE RELOCATIONS, INC., ALL-IN-ONE SHIPPING, INC., BOSTON LOGISTICS CORP., AROUND THE WORLD SHIPPING, INC., TRADEWIND CONSULTING, INC., GLOBAL DIRECT SHIPPING, MEGAN K. KARPICK (A.K.A. CATHERINE KAISER, KATHRYN KAISER, CATHERINE KERPICK, MEGAN KAISER AND ALEXANDRIA HUDSON), MARTIN J. MCKENZIE, PATRICK JOHN COSTADONI, ELIZABETH F. HUDSON, SHARON FACHLER, AND OREN FACHLER, ET. AL. – POSSIBLE VIOLATIONS OF SECTIONS 8, 10, 19 OF THE SHIPPING ACT OF 1984 AND THE COMMISSION'S REGULATIONS AT 46 C.F.R. §§ 515.3, 515.21 AND 520.3

Docket No. 06-01

Served: November 29, 2006

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BY THE COMMISSION: Steven R. BLUST, *Chairman*; A. Paul ANDERSON, Joseph E. BRENNAN, Harold J. CREEL, Jr., and Rebecca F. DYE, *Commissioners*.

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**ORDER REVERSING ADMINISTRATIVE LAW  
JUDGE'S APPROVAL OF PROPOSED SETTLEMENT  
AGREEMENT AND REMANDING FOR FURTHER  
PROCEEDINGS CONSISTENT WITH THIS ORDER**

## INTRODUCTION

On January 11, 2006, the Federal Maritime Commission (“Commission”) instituted this proceeding by an Order of Investigation and Hearing. Following the initiation of this proceeding, the Commission obtained an injunction against certain of the named Respondents in U.S. District Court for the Southern District of Florida, which prohibits Respondents from acting as non-vessel-operating common carriers (“NVOCCs”) without a license, proof of financial responsibility, or public tariff. The Commission’s Bureau of Enforcement (“BOE”), along with four of the Respondents, seek to enter into two settlement agreements. The administrative law judge (“ALJ”) issued an order entitled “Initial Decision Approving the Proposed Settlement Agreement” (“I.D.”), on the two settlement agreements.

The Commission determined to review the I.D. approving the proposed settlement agreements in this proceeding. For the reasons set forth below, we reverse the ALJ’s approval and remand the proposed settlement agreements for further proceedings consistent with this Order.

### A. Order of Investigation and Hearing

On January 11, 2006, the Commission instituted this proceeding by an Order of Investigation and Hearing. The purpose of the investigation is to determine whether the Respondents violated sections 8(a), 10(d)(1), and 19 of the Shipping Act of 1984, 46 U.S.C. §§ 40501-40503, 41301-42307, and 40901-40904,<sup>1</sup> and the Commission’s regulations at 46 C.F.R. Parts 515 and 520 by operating as unlicensed NVOCCs, operating without proof of financial responsibility, operating without publishing a tariff, and by failing to establish, observe, and

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<sup>1</sup> These sections of the Shipping Act were formerly 46 U.S.C. §§ 1707, 1710, and 1718. The new citations reflect the recent codification of Title 46. Pub. L. No. 109-304 (2006).

enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property. Order of Investigation at 7. The Respondents named in the Order are: Moving Services, L.L.C.; Worldwide Relocations, Inc.; International Shipping Solutions, Inc.; Dolphin International Shipping, Inc.; All-in-One Shipping, Inc.; Boston Logistics Corp.; Around the World Shipping, Inc.; Tradewind Consulting, Inc.; Global Direct Shipping; Sharon Fachler; Oren Fachler; Lucy Norry; Patrick J. Costadoni; Steve Kuller; Megan K. Karpick (a.k.a. Cathryn Kaiser, Kathryn Kaiser, Catherine Kerpick, Megan Kaiser and Alexandria Hudson); Barbara Deane (a.k.a. Barbara Fajardo); Baruch Karpick; Martin J. McKenzie; Joshua S. Morales; Elizabeth F. Hudson; Daniel E. Cuadrado (a.k.a. Daniel Edward); Ronald Eaden; and Robert Bachs (collectively “Respondents”).

The Order of Investigation states that the Commission received over 250 complaints from shippers claiming that they hired one of nine household goods moving companies that appear to be related to one another to transport their goods from various locations within the United States to foreign destinations. *Id.* at 1. The complaints alleged that the moving companies: (1) failed to deliver cargo and refused to return pre-paid ocean freight; (2) lost cargo; (3) charged for marine insurance but never actually obtained coverage; (4) misled the shipper regarding the location of cargo; (5) charged the shipper a substantially inflated rate after cargo was tendered and subsequently threatened to withhold the cargo unless the increased freight was paid; and (6) failed to pay the common carrier hired as an intermediary. *Id.* at 2.

B. FMC Obtains Injunction Against Respondents in 06-01

On January 17, 2006, the U.S. District Court for the Southern District of Florida granted the Commission’s request for a preliminary injunction against International Household Goods Movers; All-In-One Shipping, Inc., Around the World Shipping, Inc.; Boston Logistics Corp.; Global Direct Shipping; Daniel Cuadrado; Elizabeth F. Hudson; and Joshua Morales, which prohibits these parties from acting as NVOCCs without a license, proof of financial responsibility, or public

tariff. If these entities fail to comply with the injunction, they could be held in civil contempt by the court. The injunction covers those entities and individuals for which there was evidence to demonstrate they were currently operating. See FMC News Release 06-01, January 18, 2006. The order granting the injunction provides that the named entities and those in active concert or participation with them are restrained and enjoined from: violating sections 8, 19(a), and 19(b) of the Shipping Act by accepting cargo for transportation and advertising for or soliciting cargo while operating as ocean transportation intermediaries (“OTIs”) in the United States without a valid license issued by the Commission; and accepting cargo for transportation and advertising for or soliciting cargo while operating as a non-vessel-operating common carrier without a valid bond, proof of insurance, or other surety on file with the Commission and without a tariff available for inspection by the public. The injunction will remain in effect until ten days after the completion of the Commission’s investigatory proceeding.

C. Joint Memoranda in Support of the Proposed Settlements

On May 2, 2006, BOE and four respondents submitted joint memoranda in support of proposed settlements. Joshua S. Morales and All-in-One Shipping submitted a joint memorandum with BOE in support of a proposed settlement agreement. Joint Memorandum with All-in-One at 1-2. Respondents Morales and All-in-One admit, *inter alia*, that they each violated sections 8(a) and 19 of the Shipping Act and they have agreed to cease and desist from holding out or operating as an OTI without a license issued by the Commission. Mr. Morales has agreed that his involvement with any ocean transportation services company will only be as a bona fide employee. Respondents Morales and All-in-One have also withdrawn their OTI license application and have agreed they will not file another application for All-in-One or any other entity for one year from the date of the settlement agreement. *Id.* at 3. Any subsequent application for a license shall be reviewed directly by the Commission. Proposed Settlement Agreement with All-in-One at 4. Respondents have also agreed to cooperate with any ongoing investigative activity or enforcement action in this docket or any related

actions. Id. In addition, Respondents have agreed to utilize their best efforts to resolve any outstanding consumer complaints related to their prior ocean transportation activities. Id. at 2. The settlement agreement further notes that Respondents have disclosed information, facts, and documents related to their activities, as well as the activities of other named parties in the docket. Id.

Daniel E. Cuadrado and Around the World Shipping, Inc., also submitted a joint memorandum with BOE in support of a proposed settlement agreement. Joint Memorandum with Around the World at 1-2. Respondents Cuadrado and Around the World Shipping admit, *inter alia*, that they each violated sections 8(a) and 19 of the Shipping Act and they have agreed to cease and desist from holding out or operating as an OTI without a license issued by the Commission. Mr. Cuadrado has agreed that his involvement with any ocean transportation services company will only be as a bona fide employee. Respondents Cuadrado and Around the World Shipping have also agreed that they will not file an OTI license application for Around the World Shipping or any other entity for one year from the date of the settlement agreement. Id. at 3.

Any subsequent application for a license shall be reviewed directly by the Commission. Proposed Settlement Agreement with Around the World at 4. Respondents have also agreed to cooperate with any ongoing investigative activity or enforcement action in this docket or any related actions. Id. In addition, Respondents have agreed to utilize their best efforts to resolve any outstanding consumer complaints related to their prior ocean transportation activities. Id. at 2. The settlement agreement further notes that Respondents have disclosed information, facts, and documents related to their activities, as well as the activities of other named parties in the docket. Id.

D. Initial Decision on Proposed Settlement Agreement

On May 23, 2006, the ALJ issued an I.D. approving both of the proposed settlements. The ALJ indicates that it is the Commission's policy to encourage settlements, and that if a proffered settlement does not violate any law and is free of any defect that might make it unacceptable, it will likely be approved. See I.D. at 2 (citing Old Ben

Coal, 21 F.M.C. 506, 512 (ALJ 1978)). The ALJ indicates further that the proposed settlement agreements would save all parties time and expense associated with litigation, and that the settlement agreements would also advance the Commission's enforcement policy by "penaliz[ing] the respondents, ensur[ing] their future compliance, and may reasonably be expected to deter similar misconduct within the industry." Id. at 3.

### DISCUSSION

We have determined not to approve the proposed settlement agreements submitted to us by the ALJ. We are unable, based upon the record before us, to conclude that approval of the settlements would be in the public interest. First, the Order of Investigation states that over 250 consumer shipper complaints were filed against the Respondents named in this proceeding collectively. However, it remains unclear if any of the complaints filed against All-in-One Shipping or Around the World Shipping or the named individuals were resolved favorably for shippers. For example, was misplaced cargo located and delivered to any of the injured shippers? Was pre-paid ocean freight returned, as necessary? Were shippers refunded any monies paid as a result of inflated rates?

Second, the I.D. and the proposed settlements lack a substantive discussion regarding the alleged section 10 violations. The Order of Investigation provides that the shipper complaints allege that the collective Respondents: failed to deliver cargo and refused to return pre-paid ocean freight; lost cargo; charged for marine insurance but never obtained such coverage; misled shippers regarding the location of their cargo; charged shippers inflated rates after the cargo had been tendered and then threatened to withhold the cargo unless the increased freight was paid; and failed to pay the common carrier used by Respondents as an additional intermediary. Order of Investigation at 2. The Order alleges that these activities could constitute a violation of section 10(d)(1) of the Shipping Act. That section provides that "[n]o common carrier, ocean transportation intermediary, or marine terminal operator may fail to establish, observe, and enforce just and reasonable

regulations and practices relating to or connected with receiving, handling, storing, or delivering property.” 46 U.S.C. § 41102. The I.D. states that Respondents admit to violating sections 8 and 19 but omits any mention of section 10 violations. It is unclear whether All-in-One, Mr. Morales, Around the World, or Mr. Cuadrado committed any of the alleged violations outlined in the Order of Investigation. It further remains unclear that if section 10 violations were committed by some or all of these four Respondents, whether the violations were remedied. These are a few examples of the issues that need to be fleshed out before the Commission can approve the proposed settlement agreements.

Therefore, we are remanding these settlement agreements to the current ALJ to develop the record to support a finding that any settlement entered into in this proceeding is in the public interest. Specifically, we direct the ALJ to determine whether and to what extent the consumer complaints giving rise to this proceeding have been resolved. In addition, with respect to any such settlements we instruct the ALJ to address more fully each of the provisions of the Shipping Act alleged to have been violated. To the extent it deems necessary, BOE is directed to provide any sensitive details in support of its settlement agreements in a confidential filing(s) to the Commission. For example, if BOE agreed not to prosecute the alleged section 10 violations in exchange for information or cooperation that would assist in its litigation against other Respondents, that information would be helpful to the Commission’s deliberations.

#### CONCLUSION

Given Respondents’ alleged flagrant conduct in this proceeding, as outlined in the Order of Investigation, we are unable to conclude that the proposed settlements are in the public interest, without the benefit of further elaboration on the existence of the purported section 10 violations and whether the claims of the injured shippers were resolved. While the Commission generally encourages settlements, the gravity of offenses alleged to have been committed in this proceeding prompted the Commission to seek injunctive relief in U.S. District

Court. These are the first proposed settlements in this proceeding, and they concern entities and individuals named in the injunction. These settlements may likely provide the framework for future settlements with other Respondents. Therefore, we are reversing the ALJ's approval of the proposed settlements, and remanding this proceeding with instructions to explain whether and to what extent the shippers' complaints have been resolved. In addition, it is necessary to further elaborate upon the alleged section 10 violations.

THEREFORE, IT IS ORDERED, That the proposed settlement agreements are remanded for further disposition consistent with this Order.

By the Commission.



Bryant L. VanBrakle  
Secretary