ORIGINAL

(S E R V E D)
( August 11, 2004 )
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

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DOCKET NO. 04-09

AMERICAN WAREHOUSING OF NEW YORK, INC.

v.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

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NOTICE OF FILING OF COMPLAINT AND ASSIGNMENT

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Notice is given that a complaint has been filed by American Warehousing of New York, Inc. ("Complainant") against The Port Authority of New York and New Jersey ("Respondent"). Complainant contends that Respondent violated sections 10(d)(3)[1], and 10(d)(4) of the Shipping Act of 1984, U.S.C. app. §1709(d)(3) and 1709(d)(4), respectively. Specifically, the Complainant alleges that the Respondent has unreasonably refused to deal with Complainant and shown unreasonable prejudice against the Complainant by refusing to negotiate in good faith a long-term extension or renewal of their Marine Terminal Lease Agreement ("Agreement of Lease"). As a direct result of these allegations, Complainant claims that it has suffered and will continue to suffer substantial ongoing economic damages and injury. Complainant seeks an order directing Respondent to cease all actions to terminate

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[1]Complainant references section 10(d)(3) of the Shipping Act of 1984, 46 U.S.C. app. §1709(d)(3), which applies sections 10(b)(10) and 10(b)(13) to marine terminal operators.

Complainant's leasehold relationship with Respondent; recommence discussions with the Complainant in good faith for a long-term extension of the Agreement of Lease similar to those entered into by Respondent for its other terminals; establish and put in force such practices as the Commission determines to be reasonable; pay reparations in an amount yet to be determined but exceeding $15,000,000.00 per year, including interest and attorney fees or any other damages to be determined; and take any other such action or provide any other such relief as the Commission determines to be warranted.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held , shall commence within the time limitations prescribed in 46 C.F.R. 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 C.F.R. 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 11, 2005 and a final decision of the Commission shall be issued by December 9, 2005.

Karen Gregory

Karen Gregory
Assistant Secretary

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

- The filing hours at this location are 8 a.m. to 7 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Jennifer McKee, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–A263, 445 12th Street, SW., Washington, DC 20554, or by e-mail to *jennifer.mckee@fcc.gov*. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com*.

The original petitions for reconsideration filed by the parties in CC Docket Nos. 94–1 and 96–262 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, or by e-mail at *fcc@bcpiweb.com*.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200 *et seq.* Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

**Authority:** 47 U.S.C. 152, 154, 155, 303; 47 CFR 0.291, 1.429.

Federal Communications Commission.

**Jeffrey J. Carlisle,**

*Acting Chief, Wireline Competition Bureau.*

[FR Doc. 04–18804 Filed 8–16–04; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL MARITIME COMMISSION

**[Docket No. 04–09]**

### American Warehousing of New York, Inc. v. the Port Authority of New York and New Jersey; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed by American Warehousing of New York, Inc. ("Complainant") against The Port Authority of New York and New Jersey ("Respondent"). Complainant contends that Respondent violated sections 10(d)(3) [1], and 10(d)(4) of the Shipping Act of 1984, U.S.C. app. section 1709(d)(3) and 1709(d)(4), respectively. Specifically, the Complainant alleges that the Respondent has unreasonably refused to deal with Complainant and shown unreasonable prejudice against the Complainant by refusing to negotiate in good faith a long-term extension or renewal of their Marine Terminal Lease Agreement ("Agreement of Lease"). As a direct result of these allegations, Complainant claims that it has suffered and will continue to suffer substantial ongoing economic damages and injury. Complainant seeks an order directing Respondent to cease all actions to terminate Complainant's leasehold relationship with Respondent; recommence discussions with the Complainant in good faith for a long-term extension of the Agreement of Lease similar to those entered into by Respondent for its other terminals; establish and put in force such practices as the Commission determines to be reasonable; pay reparations in an amount yet to be determined but exceeding $15,000,000.00 per year, including interest and attorney fees or any other damages to be determined; and take any other such action or provide any other such relief as the Commission determines to be warranted.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 11, 2005 and a final decision of the Commission shall be issued by December 9, 2005.

**Karen Gregory,**

*Assistant Secretary.*

[FR Doc. 04–18727 Filed 8–16–04; 8:45 am]

BILLING CODE 6730–01–P

[1] Complainant references section 10(d)(3) of the Shipping Act of 1984, 46 U.S.C. app. section 1709(d)(3), which applies sections 10(b)(10) and 10(b)(13) to marine terminal operators.

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 31, 2004.

**A. Federal Reserve Bank of Richmond** (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

*1. William Ray Harris, Sr., Jean Wright Harris, Michael Wesley Harris, Florence*