

# ORIGINAL

(S E R v E D)  
( January 17, 2003 )  
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

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DOCKET NO. 02-06

HUDSON SHIPPING (HONG KONG), LTD.  
d/b/a HUDSON EXPRESS LINES -  
POSSIBLE VIOLATIONS OF SECTION 10(a)(1)  
OF THE SHIPPING ACT OF 1984

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ORDER GRANTING MOTION TO AMEND  
ORDER OF INVESTIGATION

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This matter is before the Commission upon a request by Administrative Law Judge Michael A. Rosas ("ALJ") for a determination whether to amend the current order of investigation to ascertain whether Hudson Shipping (Hong Kong) Ltd. d/b/a Hudson Express Lines ("Hudson" or "Respondent") has violated, and continues to violate, section 19(b)(1) of the Shipping Act of 1984, 46 U.S.C. app. § 1718(b)(1).

On April 5, 2002, the Commission issued an Order of Investigation and Hearing to determine whether Hudson violated

section 10(a)(1) of the Shipping Act, 46 U.S.C. app. § 1709(a)(1)<sup>1</sup>, and whether in the event violations are found, penalties should be assessed and a cease and desist order issued. The Bureau of Enforcement ("BOE") filed a Request to Amend the Order of Investigation and Hearing on December 6, 2002, to which Hudson did not reply. Thereafter, the ALJ referred the matter to the Commission for its consideration.

BOE's Motion

BOE contends that during the course of discovery in this proceeding, it has obtained evidence which appears to indicate that Hudson is operating as an ocean transportation intermediary/non-vessel-operating common carrier ("OTI/NVOCC") in violation of section 19(b)(1) of the Shipping Act. BOE Request at 1. That section provides that no person may act as an OTI without a bond, proof of insurance, or other surety as proscribed by the Commission. 46 U.S.C. app. § 1718(b)(1). See also 46 C.F.R. § 515.21.

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<sup>1</sup> Section 10(a)(1) provides that no person may knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable.

In support of its position, BOE first points out that Hudson's surety bond was cancelled effective September 4, 2002, after it received notice of the pending cancellation from the Commission's Bureau of Consumer Complaints and Licensing and an opportunity to rectify that deficiency. In addition, BOE offers evidence in the form of bills of lading which appear to indicate that at least three ocean common carriers have transported cargo for Hudson since the cancellation of its bond.

Discussion

As with the issuance of an order of investigation in the first place, the decision whether to amend an order of investigation is an issue reserved for the Commission's discretion. See David P. Kelly and West Indies Shipping and Trading, Inc. -- Possible Violations of the Shipping Act of 1984, 28 S.R.R. 1476 (2000). In this case, BOE seeks to add section 19(b)(1) to the pending order of investigation, contending that it will demonstrate that the Respondent has violated, and continues to violate, the Shipping Act by acting as an NVOCC in the U.S. foreign commerce without the requisite financial responsibility.

The exhibits presented in support of BOE's request appear to indicate that Hudson has violated the Shipping Act. Although Hudson failed to respond to BOE's motion, it will have an

opportunity to respond to the new charges. As a result, amending the existing order of investigation will not prejudice Respondent.

The Shipping Act's requirement that OTIs secure financial responsibility in order to operate in the U.S. foreign commerce is designed to protect the shipping public. The surety bonds secured by NVOCCs are available to pay for any damages arising from an NVOCC's transportation-related activities. In this instance, because the evidence appears to indicate that Hudson has operated, and perhaps continues to operate, without the statutorily-mandated financial responsibility, we have determined to amend the existing order of investigation to ascertain whether the alleged violations have occurred and continue to occur.

NOW, THEREFORE IT IS ORDERED, That pursuant to sections 11, 13 and 19 of the Shipping Act, 46 U.S.C. app. §§ 1710, 1712 and 1718, the pending order of investigation in Docket No. 02-06 is amended to determine:

1. whether Hudson Shipping (Hong Kong) Ltd. d/b/a Hudson Express Lines violated section 19(b) (1) of the Shipping Act of 1984, 46 U.S.C. app. § 1718, by acting as an ocean transportation intermediary without furnishing to the Commission a bond, proof of insurance, or other surety to insure its financial responsibility;

2. whether, in the event violations of section 19(b) (1) of

the Shipping Act of 1984 are found, civil penalties should be assessed against Hudson Shipping (Hong Kong) Ltd. d/b/a Hudson Express Lines, and in what amount; and

3. whether, in the event violations are found, an appropriate cease and desist order should be issued.

By the Commission.



Bryant L. VanBrakle  
Secretary

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January 17, 2003

FEDERAL MARITIME COMMISSION

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HUDSON SHIPPING (HONG KONG) LTD. D/B/A HUDSON EXPRESS LINES  
POSSIBLE VIOLATIONS OF SECTION 10(a) (1) OF THE SHIPPING ACT  
OF 1984

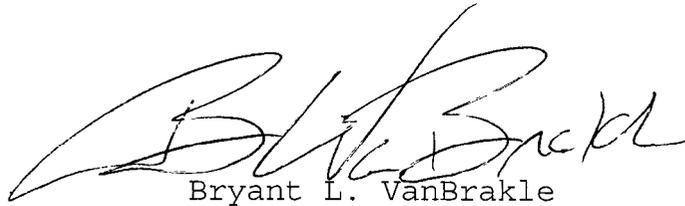
Notice of Amended Order of Investigation

On April 5, 2002, the Federal Maritime Commission ("Commission") served an Order of Investigation and Hearing ("Order") on Hudson Shipping (Hong Kong) Ltd. d/b/a Hudson Express Lines ("Hudson"), instituting a proceeding to determine whether Hudson violated section 10(a)(1) of the Shipping Act of 1984 ("Shipping Act") and, in the event violations are found, whether penalties should be assessed and, if so, in what amount and whether a cease and desist order should be issued. Notice of the Order was published in the Federal Register on April 18, 2002 (67 FR 19185).

Notice is hereby given that on January 17, 2003, the Commission amended the Order to also determine whether Hudson violated section 19(b) (1) of the Shipping Act; whether, in the event violations of section 19(b)(1) of the Shipping Act are found, civil penalties should be assessed against Hudson and in what amount; and whether, in the event

violations are found, an appropriate cease and desist order should be issued.

Any person having an interest in participating in this proceeding may file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.72.

A handwritten signature in black ink, appearing to read 'Bryant L. VanBrakle', written in a cursive style.

Bryant L. VanBrakle  
Secretary

STATUS: The entire meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

- Rescission of Finance Board Resolutions Governing the Federal Home Loan Bank of Atlanta's Affordable Multifamily Participation Program.
- Community Investment Cash Advance-Approval of Claritas, Inc. as Data Source for Determining Area Median Incomes.
- Appointment of Federal Home Loan Bank Directors.
- Delegation of Authority.

**CONTACT PERSON FOR MORE INFORMATION:** Elaine L. Baker, Secretary to the Board, (202) 408-2837.

**Arnold Intrater,**  
General Counsel

[FR Doc. 03-1778 Filed 1-22-03; 1:40 pm]

BILLING CODE 6726-01-P

**FEDERAL MARITIME COMMISSION**

[Docket No. 02-06]

**Hudson Shipping (Hong Kong) Ltd. D/B/A Hudson Express Lines; Possible Violations of Section 10(a)(1) of the Shipping Act of 1984; Notice of Amended Order of Investigation**

On April 5, 2002, the Federal Maritime Commission ("Commission") served an Order of Investigation and Hearing ("Order") on Hudson Shipping (Hong Kong) Ltd. d/b/a Hudson Express Lines ("Hudson"), instituting a proceeding to determine whether Hudson violated section 10(a)(1) of the Shipping Act of 1984 ("Shipping Act") and, in the event violations are found, whether penalties should be assessed and, if so, in what amount and whether a cease and desist order should be issued. Notice of the Order was published in the **Federal Register** on April 18, 2002 (67 FR 19185).

Notice is hereby given that on January 17, 2003, the Commission amended the Order to also determine whether Hudson violated section 19(b)(1) of the Shipping Act; whether, in the event violations of section 19(b)(1) of the Shipping Act are found, civil penalties should be assessed against Hudson and in what amount; and whether, in the event violations are found, an appropriate cease and desist order **should** be issued.

Any person having an interest in participating in this proceeding may file a petition for leave to intervene in accordance with Rule 72 of the

Commission's rules of practice and procedure, 46 CFR 502.72.

**Bryant L. VanBrakle,**  
Secretary

[FR Doc. 03-1590 Filed 1-23-03; 8:45 am]

BILLING CODE 6730-01-P

**FEDERAL MARITIME COMMISSION**

**Sunshine Act Meeting**

**AGENCY HOLDING THE MEETING:** Federal Maritime Commission.

**TIME AND DATE:** 10 a.m.-January 29, 2003.

**PLACE:** 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: Closed.

**MATTERS TO BE CONSIDERED:** 1. Docket No. 02-02—Canaveral Port Authority—Possible Violations of Section 10(b)(10), Unreasonable Refusal to Deal or Negotiate.

**CONTACT PERSON FOR MORE INFORMATION:** Bryant L. VanBrakle, Secretary, (202) 523-5725.

**Bryant L. VanBrakle,**  
Secretary

[FR Doc 03-1790 Filed 1-22-03; 2 06 pm]

BILLING CODE 6730-01-M

**FEDERALRESERVESYSTEM**

**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the

standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 18, 2003.

**A. Federal Reserve Bank of Cleveland** (Stephen J. Ong, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *McCreary National Bancorp, Inc.*, Corbin, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of McCreary National Bank, Whitley City, Kentucky.

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

1. *Forest Merger Corporation and FBR TRS Holdings, Inc.*, both in Arlington, Virginia; to become bank holding companies by merging with Friedman, Billings, Ramsey Group, Inc., and FBR Asset Investment Corporation, both in Arlington, Virginia, and thereby indirectly acquiring FBR Bancorp, Inc., Arlington, Virginia, and FBR National Bank and Trust, Bethesda, Maryland. After the merger, Applicants would be renamed Friedman, Billings, Ramsey Group, Inc.

Applicants also have applied to acquire indirectly more than 5 percent of the voting shares of Bancorp Rhode Island, Inc., Providence, Rhode Island, and thereby indirectly acquire Bank Rhode Island, East Providence, Rhode Island; The Banc Corporation, Birmingham, Alabama, The Bank, Warrior, Alabama; and Pacific Union Bank, Los Angeles, California.

Board of Governors of the Federal Reserve System, January 17, 2003.

**Robert deV. Frierson,**

Deputy Secretary of the Board.

[FR Doc. 03-1574 Filed 1-23-03; 8:45 am]

BILLING CODE 6210-01-B

**FEDERALRESERVESYSTEM**

**Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities**

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C.