

ORIGINAL

(S E R V E D)
(October 8, 2003)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 03-1 1

Deans Overseas Shippers, Inc. and Sharon Stephenson Deans - Possible
Violations of Sections 8(a),10(a)(1) and 19 of the Shipping of 1984, as amended
and the Commission's Regulations at 46 C.F.R. Pts. 5 15 and 520

Deans International Shipping Co., Ltd. - Application for
License as an Ocean Transportation Intermediary

ORDER OF INVESTIGATION AND HEARING

Deans Overseas Shippers, Inc. ("Deans Overseas") is a corporation doing business as a household goods mover in the United States export trades. Incorporated in New York on November 25, 1985, Deans Overseas is located at 217-21 Merrick Blvd., Laurelton, New York 11413. Sharon Stephenson Deans ("Ms. Deans") is the chief executive officer and owns 100% of Deans Overseas' capital stock. Deans Overseas operated as anon-vessel-operating common carrier ("NVOCC") prior to revocation of its tariff and bond in September 1996.

Deans International Shipping Co., Ltd. ("Deans International") was incorporated in New York on June 28, 2002. Deans International also is located at 217-21 Merrick Blvd., Laurelton, New York 114 13. Ms. Deans serves as chief executive officer of Deans International and owns 100% of the company's stock.

It appears that at least from October 2000 to the present, Deans Overseas and its principal, Ms. Deans, held out to provide NVOCC services from the United States to destinations in the Caribbean, including advertising its services in newspapers and issuing its own NVOCC “house” bill of lading to the actual shippers. During this time, Deans Overseas did not hold a license as an ocean transportation intermediary (“OTI”), did not maintain a bond or other surety with the Commission and did not publish a tariff open for public inspection.

Sections 8(a) and 19 of the 1984 Act, 46 U.S.C. app. §§ 1707(a) and 1718, and the Commission’s regulations at 46 C.F.R. pts. 515 and 520, require any person providing service as an NVOCC to obtain an OTI license from the Commission prior to commencing service, to publish and keep open for public inspection an automated tariff showing all its rates, charges, and rules, and to file and maintain a bond, proof of insurance, or other surety with the Commission. It appears that from October 2000 to the present, Deans Overseas and its principal, Ms. Deans, knowingly and willfully operated as an NVOCC without benefit of a license, and without the requisite bond or tariff.

It also appears that Deans Overseas, through Ms. Deans, misrepresented itself as the actual cargo owner in order to enter into service contracts with ocean common carriers. Through Ms. Deans’ practice of certifying Deans Overseas as the “Cargo Owner” in service contracts, she was able to conceal from carriers that her company was not licensed as an NVOCC. By this device, Deans Overseas was able to obtain transportation from ocean common carriers at rates more favorable than those published in the carriers’ tariffs.

Section 10(a)(1) of the 1984 Act, 46 U.S.C. app. § 1709(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. It appears that Deans Overseas and its principal, Ms. Deans, knowingly and willfully obtained transportation for property for less than the rates or charges that would otherwise be applicable, by the unjust or unfair device or means of unlawfully entering into service contracts with ocean common carriers.

In April 2003, Ms. Deans filed an FMC-18 with the Commission seeking a freight forwarder license on behalf of Deans International with Ms. Deans designated as the qualifying individual. On July 30, 2003 the Bureau of Consumer Complaints and Licensing issued a letter of intent to deny the application under the authority in 46 C.F.R. §5 15.15. Having timely submitted a written request for a hearing on the application, this order provides that Ms. Deans be heard pursuant to the procedures of 46 C.F.R. pt. 502.

NOW THEREFORE, IT IS ORDERED, That pursuant to sections 8, 10, 11 and 19 of the 1984 Act, as amended, 46 U.S.C. app. §§ 1707, 1709, 1710 and 1718, and the Commission's regulations at 46 C.F.R. pts. 5 15 and 520, an investigation is instituted to determine:

1) whether Deans Overseas Shippers, Inc. and/or Sharon Stephenson Deans violated sections 8(a) and 19 of the 1984 Act, 46 U.S.C. app. §§ 1707(a) and 1718 and the Commission's regulations at 46 C.F.R. pts. 5 15 and 520 by knowingly and willfully performing NVOCC services without having obtained an OTI license from the FMC, without having filed a bond or other evidence of financial responsibility, and without having published a tariff;

2) whether Deans Overseas Shippers, Inc. and/or Sharon Stephenson Deans violated section 1 O(a)(1) of the 1984 Act by knowingly and willfully obtaining transportation for property at less than the rates or charges that otherwise would be applicable by the unjust or unfair device or means of unlawfully entering into service contracts;

3) whether the application of Deans International Shipping Co., Ltd. for an OTI license to operate as a freight forwarder should be granted or denied;

4) whether, in the event violations of sections 8 (a), 10(a)(1) and 19 of the 1984 Act or the Commission's regulations at 46 C.F.R. pts 5 15 and 520 are found, civil penalties should be assessed against Deans Overseas Shippers, Inc. and Sharon Stephenson Deans, and, if so, the amount of penalties to be assessed; and

5) whether, in the event such violations are found, appropriate cease and desist orders should be issued against Deans Overseas Shippers, Inc. and/or Sharon Stephenson Deans.

IT IS FURTHER ORDERED, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only after consideration has been given by the parties and the Presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper 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 matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

IT IS FURTHER ORDERED, That Deans Overseas Shippers, Inc., Deans International Shipping Co., Inc. and Sharon Stephenson Deans are designated as Respondents in this proceeding;

IT IS FURTHER ORDERED, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

IT IS FURTHER ORDERED, That notice of this Order be published in the Federal Register, and a copy be served on parties of record;

IT IS FURTHER ORDERED, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.72;

IT IS FURTHER ORDERED, That all further notices, orders and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on all parties of record;

IT IS FURTHER ORDERED, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.118, and shall be served on all parties of record; and

IT IS FURTHER ORDERED, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.61, the initial decision of the Administrative Law Judge shall be issued by October 7, 2004 and the final decision of the Commission shall be issued by February 4, 2004.

By the Commission.

A handwritten signature in black ink, appearing to read "Bryant L. VanBrakle". The signature is written in a cursive, somewhat stylized font.

Bryant L. VanBrakle
Secretary