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August 9, 2012

Richard L. Furman  
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Via E-mail: Secretary@FMC.gov and Mail

Ms. Karen V. Gregory  
Office of the Secretary  
Federal Maritime Commission  
800 North Capital Street NW  
Washington, DC 20573

Re: Yakov Kobel and Victor Berkovich  
Complainants vs. Hapag-Lloyd America et al  
FMC Docket No. 10-06  
Our File: 1180-2

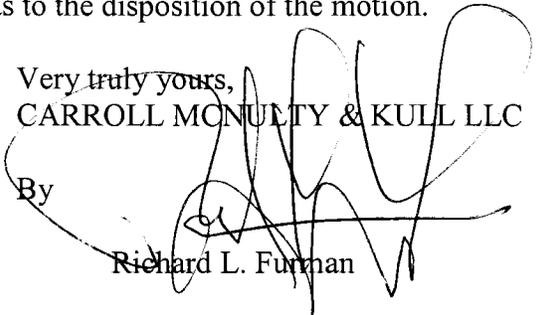
Dear Ms. Gregory:

Enclosed please find the Notice of Motion and Motion for Postponement in the above-referenced file, which we are serving today.

Thank you for the courtesy of your advice as to the disposition of the motion.

Very truly yours,  
CARROLL MCNULTY & KULL LLC

By

  
Richard L. Furman

RLF:npo  
Encs.

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*Federal Maritime Commission*

WASHINGTON, D.C.

DOCKET NO. 10-06

YAKOV KOBEL AND VICTOR BERKOVICH

V.

HAPAG-LLOYD AMERICA, INC., LIMCO LOGISTICS, INC., AND  
INTERNATIONAL TLC, INC.

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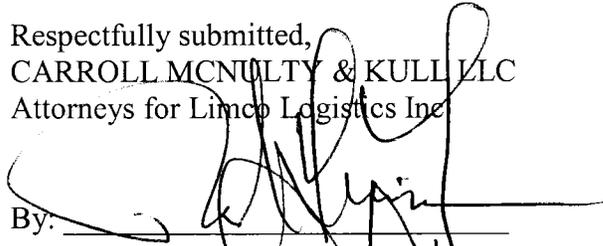
**Notice of Motion**

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PLEASE TAKE NOTICE that, upon the accompanying Motion of Counsel for Respondent LIMCO LOGISTICS INC. ("LIMCO"), LIMCO will move this Commission for an Order, pursuant to F.R.C. § 502.104, granting a postponement of the oral argument scheduled for September 19, 2012 till November 19, 2012 or such other date set by the Commission, and for such further, additional and different relief as the Commission may find just and proper.

DATED: August 9, 2012

Respectfully submitted,  
CARROLL MCNULTY & KULL LLC  
Attorneys for Limco Logistics Inc

By: 

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WASHINGTON, D.C.

DOCKET NO. 10-06

**YAKOV KOBEL AND VICTOR BERKOVICH**

**V.**

**HAPAG-LLOYD AMERICA, INC., LIMCO LOGISTICS, INC., AND**

**INTERNATIONAL TLC, INC.**

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**Motion for Postponement**

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**COMES NOW** the Respondent, LIMCO LOGISTICS INC., by and through undersigned counsel and files this Motion for Postponement of the action in the above cause, pursuant to 46 F.R.C. § 502.104. In support of said motion, Respondent would show unto the Commission, as follows:

1. The motion is being made to obtain an Order of the Commission adjourning and postponing oral argument requested by Complainants for oral argument of their exceptions to the Initial Decision of the Administrative Law Judge dismissing this proceeding. Oral argument is presently scheduled for September 19, 2012.

2. For the reasons set forth below, it is respectfully submitted that a postponement of the oral argument is merited by the considerations of justice and equity.

3. Throughout the pendency of this proceeding and until recently, Ronald Saffner, Esq. acted as counsel for Respondent LIMCO LOGISTICS INC. ("LIMCO"). Most unfortunately, Mr. Saffner suddenly and unexpectedly passed away on June 22, 2012. As a consequence LIMCO retained Richard L. Furman, of the firm Carroll McNulty & Kull LLC to replace Mr. Saffner as LIMCO's attorney, almost immediately upon receiving word of Mr.

Saffner's passing. The substitution of Mr. Furman and Carroll McNulty & Kull as counsel has since been filed with the Commission and served on the other parties to this proceeding.

4. As noted, oral argument of Complainants' exceptions is scheduled for September 19, 2012. This case has been filed July 6, 2010. Numerous substantive filings, comprising the parties' pleadings and briefs on the merits of their respective positions as well as determinations by the Administrative Law Judge ("ALJ") during pendency of the proceeding have been submitted, reflected in some ninety-one (91) docket entries. Further, the hearing of the case before the ALJ generated an 800 page transcript.

5. A postponement is necessary to allow Mr. Furman a reasonable amount of time to become fully briefed on the details of the parties' substantive positions and the proceedings held to date, so as to be able to adequately defend LIMCO in the forthcoming oral argument.

6. Consequently, it is respectfully requested that the oral argument presently scheduled for September 19, 2012, be postponed and rescheduled to November 19, 2012, or such other date as the Commission may designate in light of the considerations discussed below.

7. Counsel for Respondents Hapag-Lloyd and International TLC, Inc. have consented to the proposed adjournment date.

8. Counsel for Complainants has objected to the proposed postponement on the ground that he is scheduled for a surgical procedure on October 23, 2012. Counsel has advised he will require four to six weeks within which to recover, precluding his ability to travel to and/or appear for the oral argument on the date proposed for the rescheduling of the oral argument.

9. LIMCO is certainly sensitive to opposing counsel's medical situation and has no intention to cause him any difficulty or inconvenience. Consequently LIMCO is agreeable to an adjournment to a date beyond the time needed by counsel to fully recuperate from his surgery.

10. Such a postponement will not prejudice Complainants' opportunity to present their oral argument. In fact, it will afford Complainants added time within which to prepare their oral argument. However, denying LIMCO the added time to have competent counsel prepared to respond to Complainants' oral argument, given the eleventh hour at which counsel was retained, would prejudice LIMCO's ability to defend itself, under circumstances where the delay was not due to any act or omission of LIMCO, but, rather, an act of God.

11. It is noted that the ALJ's decision was docketed on February 14, 2012; that Complainants' exceptions to the decision were docketed on March 7, 2012; replies to the exceptions were docketed March 27, 2012 and April 12, 2012. Thereafter, the Commission did not rule on Complainants' request for oral argument of their exceptions until July 27, 2012, more than four and one-half (4 1/2) months after oral argument was requested. In light of the foregoing, a few more months to allow new counsel to adequately prepare to assume the defense of LIMCO should not represent that much more of a delay in conducting the oral argument than has already occurred.

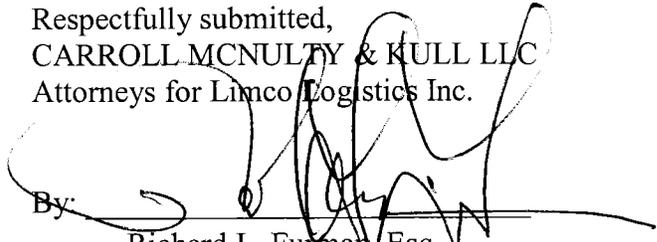
12. It is submitted the equities of the parties' positions regarding the subject of this motion may be fairly balanced by giving Complainants' counsel all the time he wishes to request to enable him to fully recover from his surgery. In turn, this will provide substituted counsel equally adequate time within which to be fully prepared to respond to Complainant's exceptions when briefed and argued before the Commission.

13. This Motion for Postponement is not made for purposes of delay, but only in order that justice may be done.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully requests this Honorable Court to grant this Motion for Postponement.

DATED: August 9, 2012

Respectfully submitted,  
CARROLL MCNULTY & KULL LLC  
Attorneys for Limco Logistics Inc.

By: 

Richard L. Furman, Esq.  
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## CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury that the following is true and correct

1. I am a legal assistant for the law firm of Carroll, McNulty & Kull LLC, I am not a party to this action, and I hereby affirm that I am over 18 years of age.

2. On August 9, 2012 I served a complete copy of:

RESPONDENT'S NOTICE OF MOTION and MOTION FOR POSTPONEMENT

to the following parties at the following addresses postage prepaid by first class mail and email:

Via E-mail: donroachlaw@yahoo.com

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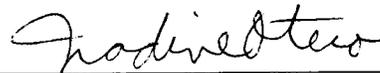
Via E-mail: WRohde@cozen.com

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Via E-mail: itlclogistics@gmail.com; info@itlclogistics.com

Alena Tokar  
International, TCL, Inc.  
16402 29th Street East  
Lake Tapps, WA 98391

DATED: August 9, 2012



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NADINE OTERO