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March 7, 2010					
FEDERAL		MARITIME		COMMISSION	

FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

DOCKET NO. 10-10

DRAFT CARGOWAYS (INDIA) PVT. LTD.

v.

**DAMCO USA, INC., DAMCO A/S, A.P. MOLLER-MAERSK A/S,
GLENCORE LTD., AND ALLEGHENY ALLOYS TRADING, L.P.**

ORDER GRANTING DISMISSAL OF ALLEGHENY ALLOYS TRADING, L.P.

On February 2, 2011, complainant Draft Cargoways (India) Pvt. Ltd. filed a Notice of Dismissal of Respondent Allegheny Alloys Trading, L.P. ("Motion"). Complainant requests a voluntary dismissal of its causes of action against Allegheny Alloys "with prejudice as to the filing of any future action at the Federal Maritime Commission based on violations of the Shipping Act of 1984, as amended." Motion at 1. No responses to the Motion were received.

Allegheny Alloys was named a party in an amended complaint served on December 8, 2010. The amended complaint alleged that Allegheny Alloys violated section 10(a)(1) of the Shipping Act, 46 U.S.C. § 41102(a). Allegheny Alloys has not filed its answer to the amended complaint.

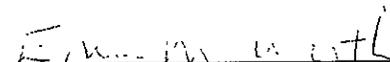
Although the Commission's Rules of Practice and Procedure do not have a specific rule authorizing voluntary dismissals, such dismissals have been permitted.

The Commission as well as the federal courts respect the rights of complainants to withdraw or seek dismissal of their complaints The relevant federal rule is Rule 41(a) (Voluntary Dismissal), which permits complainants to seek dismissal of their complaints by mere notice or by stipulation if no answer to the complaint has been filed but by order of the court if an answer has been filed. The Commission follows the federal rules absent a specific Commission rule. See 46 C.F.R. 502.12. It has

also been recognized that complainants should not be compelled to litigate cases if they choose not to do so.

Trek Bicycle Corp. v. Classic Cargo Int'l, Inc., 1999 WL 46944, *1 (ALJ Jan 12, 1999) (citations omitted). See also *Roberts Steamship Agency, Inc. v. The Board of Commissioners of the Port of New Orleans and Atlantic and Gulf Stevedores, Inc.*, 21 F.M.C. 492 (1978).

In this case, no answer to the amended complaint has been filed. Complainant has filed a notice of dismissal of Allegheny Alloy while continuing the case against the remaining respondents. Accordingly, the request to voluntarily dismiss Allegheny Alloys with prejudice as to the filing of any future action at the Federal Maritime Commission based on violations of the Shipping Act is **GRANTED**.



Erin M. Wirth
Administrative Law Judge