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February 16, 2012					
FEDERAL	MARITIME	COMMISSION			

FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

DOCKET NO. 11-08

NDAHENDEKIRE BARBARA

v.

**AFRICAN SHIPPING; NJOROGE MUHIA; ALCO LOGISTICS, LLC;
BRENDA ALEXANDER; AND AIR 7 SEAS TRANSPORT LOGISTICS, INC.**

**ORDER GRANTING VOLUNTARY DISMISSAL WITH PREJUDICE
OF AIR 7 SEAS TRANSPORT LOGISTICS, INC.**

This proceeding was filed with the Federal Maritime Commission in May of 2011 and the initial decision is due on May 9, 2012. On February 10, 2012, complainant Ndahendekire Barbara filed a motion to dismiss with prejudice ("Motion"). Complainant requests a voluntary dismissal with prejudice of its causes of action against Air 7 Seas Transport Logistics, Inc. ("Air 7 Seas"). Motion at 1. No responses to the Motion have been received.

The Complainant alleged that Air 7 Seas violated the Shipping Act of 1984, section 10(d)(1), 46 U.S.C. § 41102(c). On June 16, 2011, Air 7 Seas filed an answer and cross-claim seeking indemnity and contribution from cross-claimants in the event Air 7 Seas was subject to a judgement in this matter.

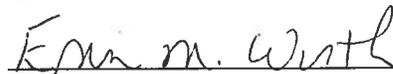
Although the Commission's Rules of Practice and Procedure do not have a specific rule authorizing voluntary dismissals, such dismissals have been permitted.

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, an answer to the complaint has been filed. Complainant has filed a notice of dismissal of Air 7 Seas while continuing the case against the remaining Respondents. Accordingly, the request to voluntarily dismiss Air 7 Seas with prejudice as to the filing of any future action at the Federal Maritime Commission based on violations of the Shipping Act is **GRANTED**.

Pursuant to the Scheduling Order in this matter, Complainant's brief and proposed findings regarding the remaining Respondents are due February 27, 2012. Failure to timely file the proposed brief will result in dismissal of the remaining claims. Additional extensions will not be permitted. Dismissal of Air 7 Seas will not operate to stay or delay proceedings against the remaining Respondents.



Erin M. Wirth

Administrative Law Judge