

FEDERAL MARITIME COMMISSION

DOCKET NO. 12-01

OC INTERNATIONAL FREIGHT, INC.;
OMJ INTERNATIONAL FREIGHT, INC.; and OMAR COLLADO

INITIAL DECISION ON REMAND¹

I. INTRODUCTION

A. Overview and Summary of Decision

On March 26, 2013, an Initial Decision (“ID”) was issued in this proceeding adjudicating Shipping Act violations which the Commission’s Bureau of Enforcement (“BOE”) alleged were committed by OC International Freight, Inc. (“OC”), OMJ International Freight, Inc. (“OMJ”), and Omar Collado (collectively “Respondents”). The Initial Decision was reviewed by the Commission.

On July 22, 2013, the Commission issued an Order Remanding for Further Proceedings (“Remand”). The Commission affirmed the findings of facts, the conclusion that the Respondents violated Section 19, the issuance of a cease and desist order, and the denial of OC’s ocean transportation intermediary (“OTI”) license application. The Commission remanded for further proceedings the determination that the Respondents did not violate Section 10(a)(1) and the civil penalty imposed. Only the issues remanded by the Commission are addressed in this decision, which relies on the findings of facts and conclusions of law set forth in the Initial Decision and affirmed by the Commission.

As discussed more fully below, the evidence is sufficient to find that the Respondents violated Section 10(a)(1), 46 U.S.C. § 41102(a), of the Shipping Act of 1984 (“Shipping Act”) by permitting an unrelated entity, Island Cargo, an unlicensed, unbonded, non-vessel-operating common

¹ The Initial Decision on Remand will become the decision of the Commission in the absence of review by the Commission. Rule 227, Rules of Practice and Procedure, 46 C.F.R. § 502.227. An appeal by a party must be filed with the Commission’s Office of the Secretary within twenty-two days from the date of service of the decision. 46 C.F.R. § 502.227.

carrier (“NVOCC”) from the Bahamas (*see* BOE² 135), to access OMJ’s 2008 Seaboard service contract. A revised civil penalty is assessed in addition to the cease and desist order and denial of the OTI license application affirmed by the Commission.

B. Procedural Background

On December 2, 2010, Mr. Collado and OC filed an application seeking an OTI license from the Commission’s Bureau of Certification and Licensing (“BCL”). BOE 110-122. Mr. Collado was identified as the proposed qualifying individual on the application and as the president and sole proprietor of OC. BOE 110. On November 17, 2011, BCL issued a letter indicating its intent to deny OC’s license application, alleging violations of Sections 10(a)(1) and 19(a) of the Shipping Act. BOE 101. Based on the asserted Shipping Act violations, BCL determined that OC and Mr. Collado lacked the requisite character to be licensed as an OTI pursuant to 46 C.F.R. § 515.14. BOE 101. By letter dated December 2, 2011, OC requested a hearing on BCL’s license determination. BOE 106.

On April 2, 2012, the Commission initiated this proceeding to determine:

- (1) whether to affirm BCL’s November 17, 2011 denial of the OTI application of OC International Freight, Inc. and Omar Collado;
- (2) whether OC International Freight, Inc., OMJ International Freight, Inc. and/or Omar Collado violated Section 10(a)(1) of the Shipping Act, 46 U.S.C. § 41102(a), by knowingly and willfully allowing other persons to obtain ocean transportation for property at less than the rates and charges that would otherwise be applicable through the device of permitting such persons to unlawfully access OMJ’s service contracts;
- (3) whether OC International Freight, Inc., OMJ International Freight, Inc. and/or Omar Collado violated section 19 (a) and (b) of the Shipping Act, 46 U.S.C. §§ 40901 and 40902, by acting as an ocean transportation intermediary without a license or evidence of financial responsibility;
- (4) whether, in the event violations of sections 10 or 19 of the Shipping Act are found, civil penalties should be assessed against OC International Freight, Inc., OMJ International Freight, Inc. and/or Omar Collado; and, if so, the amount of penalties to be assessed; and
- (5) whether, in the event violations are found, appropriate cease and desist orders should be issued.

Order for Hearing on Appeal of Denial of License and Order of Investigation and Hearing Possible Violations of Sections 10(a)(1) and 19 of the Shipping Act of 1984 at 4-5.

² The “BOE” number indicates page numbers in BOE’s appendix.

On March 26, 2013, the Initial Decision was issued. The Initial Decision included 107 specific findings of facts, relying primarily on requests for admission but adding citations to other evidence in the record where possible. ID at 17. The Initial Decision found no violation of Section 10(a)(1) based on a failure to establish an unjust or unfair means and, although not necessary to resolution of the matter, found that the evidence did not support finding that a benefit was received or that there was a knowing and willful violation of Section 10(a)(1). ID at 22, 35. The Initial Decision found fourteen willful and knowing violations of Section 19 for operating as an OTI without a licence or bond. ID at 26, 35. The Initial Decision imposed a civil penalty for the Section 19 violations, imposed a cease and desist order, and affirmed the denial of OC's OTI license application. ID at 28-35.

On July 22, 2013, the Commission issued an Order Remanding for Further Proceedings. The Commission adopted the Initial Decision's findings of facts; affirmed the determination that Respondents violated Section 19; affirmed the issuance of cease and desist orders and the denial of OC's OTI license application based on violations of Section 19; and remanded the proceeding for a determination as to whether Respondents violated Section 10(a)(1) and for calculation of civil penalties. Remand at 2. The Commission required that the Initial Decision on Remand be filed by October 30, 2013.

On July 24, 2013, an Order Scheduling Remand Briefs was issued. Pursuant to this schedule, on August 14, 2013, BOE filed its Remand Brief and on September 4, 2013, Respondents filed their Remand Brief.

On September 5, 2013, an Order Regarding Oral Argument was issued. On September 18, 2013, oral argument was heard by telephone to clarify issues raised by the remand briefs of the parties. Both parties were provided an opportunity to file remand reply briefs addressing issues discussed at the oral argument.

On September 20, 2013, BOE filed a Submission of Information Requested by the ALJ at Oral Argument ("Submission of Information"), submitting a copy of the signed and dated 2009 Seaboard service contract. During the oral argument, the admission of this additional evidence was discussed and neither party objected to its admission. Tr.³ at 46-48. The Submission of Information is hereby admitted to supplement the record.

On September 30, 2013, the parties submitted their respective Remand Reply Briefs. This proceeding is now ripe for decision.

II. ANALYSIS AND CONCLUSIONS OF LAW

A. Arguments of the Parties

In their Remand Brief, BOE argues that Respondents violated Section 10(a)(1) and that civil

³ Citations to "Tr." refer to the transcript of the September 18, 2013, oral argument.

penalties should be imposed. BOE contends that requests for admission are “dispositive of Respondents’ activities, knowledge and intent in facilitating Island Cargo’s unlawful access to service contracts.” BOE Remand Br. at 5. BOE further submits that “Respondents *both* obtained a benefit themselves *and* allowed another person (Island Cargo) to obtain a benefit through the unlawful access to service contracts.” BOE Remand Br. at 7. BOE asserts that “Respondents deceived Seaboard by intentionally signing a service contract representing that they would be acting as an NVOCC while knowing full well that they would not meet the ongoing qualification of remaining a shipper with respect to those shipments actually transported under such contract.” BOE Remand Br. at 9 (footnote omitted). BOE concludes that Respondents knowingly and willfully violated Section 10(a)(1) and that civil penalties should be assessed which exceed the maximum for violations that are not knowing and willful. BOE Remand Br. at 13-14.

Omar Collado, on behalf of all Respondents, contends that BOE has failed to demonstrate the essential elements and proof of an unjust or unfair device or means and therefore a violation of Section 10(a)(1) has not been established. Resp. Remand Br. at 2. Respondents further assert that the civil penalty should be consistent with the penalty imposed in the Initial Decision. Resp. Remand Br. at 2, 5. In their Remand Reply Brief, Respondents reiterate these arguments.

In their Remand Reply Brief, BOE provides a chart identifying amounts invoiced by Respondents to Island Cargo, clarifying an argument that Respondents benefitted from the arrangement. BOE Remand Reply Br. at 2-3. BOE also asserts that the March 9, 2013, meeting between the Commission’s Area Representative Andrew Margolis (“AR Margolis”) and the Respondents does nothing to alter the knowing and willful nature of Respondents’ activities. BOE Remand Reply Br. at 3-4. BOE requests a ruling that the Respondents willfully and knowingly violated Section 10(a)(1) in nineteen instances and requests an appropriate civil penalty that is not less than \$6,000 for each of the Section 10(a)(1) violations and not less than \$8,000 for each of the fourteen Section 19 violations. BOE Remand Reply Br. at 7.

B. Discussion

1. Section 10(a)(1), 46 U.S.C. § 41102(a)

Section 10(a)(1) of the Shipping Act, states:

Obtaining Transportation at Less Than Applicable Rates.—A person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or 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 apply.

46 U.S.C. § 41102(a).

BOE clarified upon remand that it alleges that Respondents committed Section 10(a)(1) violations only for OMJ’s 2008 service contract with Seaboard Marine. Tr. at 36-37; BOE Remand

Br. at 15 n.8. In evidence are twenty-four shipments booked by OMJ with Seaboard pursuant to this 2008 service contract. BOE 160 (RFA⁴ 12-13). OMJ did not issue a house bill of lading or invoice or collect ocean freight for any of these shipments, rather Island Cargo issued the house bill of lading and acted as an NVOCC on each of these shipments. BOE 160 (RFA 14-15). OMJ provided freight forwarding services such as booking, arranging, or confirming cargo space; preparing and/processing delivery orders and bills of lading; and arranging for warehouse space and clearing shipments in accordance with export regulations. BOE 160-161 (RFA 18). AR Margolis testified that he examined twenty-four shipment records, Seaboard service contracts, Seaboard's rated bills, and Seaboard's tariffs and concluded that for nineteen of the twenty-four shipments, a lower rate was obtained than would otherwise have been applicable. BOE 137-139,145. The total amount of the alleged undercharge for these nineteen shipments amounted to \$3,541.00. BOE 139-140, 145.

Because it impacts a number of factors discussed below, it is helpful to understand the timing of the events at issue. When discussing the Section 10(a)(1) violations, BOE claims that "Respondents continued these practices over multiple years and through multiple service contracts, despite knowing that allowing Island Cargo to access its service contracts was unlawful under the Shipping Act. Respondents continued these practices even after the meeting with AR Margolis in which Mr. Collado stated that he understood that such a device was unlawful under the Act." BOE Remand Br. at 9 (citations omitted); *see also* Exceptions of the Bureaus of Enforcement to the Initial Decision at 13 ("Respondents did so over multiple years and through multiple service contracts, including after meeting with Mr. Margolis where they were warned of the unlawfulness of such practice.")

AR Margolis first met with Respondents on March 9, 2009. ID at 9 (finding of fact 37). Initially, BOE submitted only the 2008 Seaboard service contract, which was signed on April 28, 2008, prior to the Margolis meeting. Upon request, BOE submitted an unsigned and undated copy of the 2009 Seaboard service contract. Motion to Supplement the Record (Feb. 7, 2013). Upon request at the oral argument, BOE agreed to provide the date of the 2009 Service Contract. On September 20, 2013, BOE submitted a dated and signed copy of the 2009 service contract.⁵ Submission of Information. The 2009 Seaboard service contract was signed and filed on June 19, 2009.

BOE does not allege that any shipments were made in violation of Section 10(a)(1) under the

⁴ References to "RFA" refers to requests for admission that were relied upon in the findings of facts included in the Initial Decision.

⁵ Based on this new evidence, it is necessary to correct the Initial Decision finding of fact 39 to read:

39. On June 19, 2009, OMJ entered into Service Contract 2009-01518 with Seaboard Marine Ltd. which was set to commence on June 19, 2009, and terminate on May 31, 2010. BOE Submission of Evidence. Amendment 001, filed with the Commission, indicated that the contract would commence on January 20, 2010. BOE 1515-1522.

2009 Seaboard service contract. Tr. at 29-30. Rather, BOE submitted evidence of Section 10 violations, under the 2008 Seaboard service contract, which occurred between May 9, 2008, and March 11, 2009. BOE Remand Br. at 15 n.8. Therefore, BOE does not allege any violation of Section 10(a)(1) after two days after Mr. Collado's meeting with AR Margolis. While BOE argues that Respondents signed the 2009 Seaboard contract with the intent of allowing Island Cargo to access it, without evidence of any shipments under the 2009 Seaboard service contract, it is not clear that these violations were ongoing. Moreover, it is not clear why BOE did not allege Section 10(a)(1) violations under the Crowley contract, which instead formed the basis of the Section 19 violations. Of course, there is no requirement for violations to span multiple service contracts, however, doing so could be relevant to establishing the violation as well as the civil penalty.

To prove a violation of Section 10(a)(1), it must be shown that Respondents utilized an unjust or unfair device or means, obtained transportation at less than the otherwise applicable rates, and acted knowingly and willfully. Remand at 10. Each element will be addressed in turn.

a. Unjust or Unfair Means

The Commission affirmed that a necessary ingredient of unjust or unfair means is fraud or concealment. Remand at 18. "The fraud which must be shown in order to establish an unjust or unfair means may be either fraud to the underlying common carrier or to competing shippers." Remand at 20 (citing *Rose Int'l, Inc. v. Overseas Moving Network Int'l Ltd.*, 29 S.R.R. 119, 173 (FMC 2001) (citing *Hohenberg Brothers Co. v. Federal Maritime Commission*, 316 F.2d 381, 384 (DC Cir. 1963); *China Ocean Shipping Co. v. DMV Ridgeview, Inc.*, 26 S.R.R. 50, 53, 55 (ALJ 1991); *Pacific Far East Lines*, 10 S.R.R. 1, 8 (FMC 1968))).

On remand, BOE contends that the Respondents committed fraud by deceiving Seaboard when signing a series of service contracts and that Respondents committed fraud by concealing the nature of the transaction from other shippers. BOE Remand Br. at 9. BOE argues that this fraud stifled competition and disadvantaged competing OTIs. BOE Remand Br. at 11.

Mr. Collado asserts that there was no fraud committed. Tr. at 39.

In *Prince Line, Ltd. v. American Paper Export, Inc.*, Judge Hand found that concealing shipping contents from a company's competitors "was an 'unfair device or means,' for it destroyed that equality of treatment between shippers, which it was the primary purpose of the section, and for that matter of the whole statute, to maintain." *Prince Line, Ltd. v. American Paper Export, Inc.*, 55 F.2d 1053, 1055 (2d Cir. 1932). Judge Hand explained:

The law did not forbid all concessions to a shipper; apparently it assumed that if these were above board, and known or ascertainable by competitors, the resulting jealousies and pressure upon the carrier would be corrective enough. But it did forbid the carrier to grant such favors, when accompanied by any concealment, and its command in that event was as absolute as though it had been unconditional.

Prince Line, Ltd. v. American Paper Export, Inc., 55 F.2d at 1055. The DC Circuit stated that “Congress was concerned both with protection of carriers against unscrupulous shippers, and of honest shippers against unscrupulous competitors, acting independently, or in collusion with a carrier.” *Hohenberg Brothers Co. v. Federal Maritime Commission*, 316 F.2d at 384 (footnote omitted).

It is not clear whether the transition to confidential service contracts, with confidential rates and quantities, which are not known or ascertainable by competitors, alters the traditional analysis (see Tr. at 21-23). However, there is no requirement that actual competitive injury be established, “[i]t is enough that the practice involved has the capacity or tendency to injure competition.” *Pacific Far East Lines*, 10 S.R.R. at 9.

There is no specific evidence in the record regarding harm to competition. In their Remand Reply Brief, BOE submitted redacted complaints against Respondents as rebuttal evidence to Respondents’ claim that no complaints were ever given to the FMC regarding the Respondents. ID at 4. It is not clear who submitted the complaints and the complaints are not sufficiently reliable to be probative of the issue of the impact on competing shippers. In addition, BOE does not point to any specific admission regarding whether Respondents utilized an unjust or unfair means or whether Respondents committed fraud or concealed their activities from the underlying common carrier or competing shippers.

Nonetheless, by permitting Island Cargo to access discounted rates available through Respondents’ service contract, Respondents distorted the competitive marketplace. Proprietary shippers obtaining shipping quotes would presumably have been offered lower rates by Island Cargo than by competing NVOCCs who did not have access to the discounted rates in Respondents’ service contract. The reason Island Cargo could offer these lower rates was not ascertainable by competitors. Given this impact on the competitive marketplace, the evidence is sufficient to find that Respondents obtained transportation by “means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means” as required by the Shipping Act for a violation of Section 10(a)(1).

b. Benefit to Respondents

“BOE submits that Respondents *both* obtained a benefit themselves *and* allowed another person (Island Cargo) to obtain a benefit through the unlawful access to service contracts.” BOE Remand Brief at 7 (italics in original). BOE contends that Respondents benefitted a total of over \$35,000,⁶ which was invoiced and paid by Island Cargo. BOE Remand Br. at 7.

⁶ In its Remand Brief, BOE alleged a benefit of \$35,390.05 and cited to 244 pages of exhibits. BOE Remand Br. at 7-8. In the Remand Reply Brief, BOE provided a helpful chart identifying by specific appendix page number the exhibits upon which it relies in asserting a benefit of \$37,675.05. BOE Remand Reply Br. at Attachment A. However, comparison with the underlying exhibits confirms that the correct amount should be \$38,850.05.

Respondents allege that their interpretation of the law was incorrect and they never attempted to hide the relationship with Island Cargo. Tr. at 18-19.

In *Hudson Shipping*, the respondent charged other NVOCCs a twenty dollar fee for each container shipped by accessing its service contracts and avoided paying liquidated damages for failing to meet the minimum quantity commitment. *Hudson Shipping (Hong Kong) Ltd., d/b/a Hudson Express Lines*, 29 S.R.R. 1381, 1383 (ALJ 2003). Neither type of financial benefit is shown by the evidence of record in the case *sub judice*. The financial benefit received by Respondents was for freight forwarding services, such as loading and drayage, services which BOE does not question were provided. Tr. at 14-15. In addition, as discussed in the Initial Decision, there is no evidence of whether the shipments at issue impacted any minimum quantity commitments or deadfreight penalties. ID at 21. In this case, the financial benefit essentially comes from a tying relationship, i.e. that Respondents would not have performed the freight forwarding services without providing access to the service contract.

The evidence supports a finding that the following OC invoices were sent to Island Cargo. Some of the invoices are marked paid (*see, e.g.*, BOE 287, 303). The total amount invoiced to Island Cargo for the nineteen shipments in which transportation was obtained for less than the applicable rates is \$24,936.75.

Exhibit Number	Appendix page(s)	Date of Invoice	Amount of Invoice(s)
B1	BOE 193	5/07/08	\$1,180.00
B2	BOE 206	5/07/08	\$1,555.00
B8	BOE 287	7/28/08	\$2,116.75
B9	BOE 296	7/30/08	\$1,185.00
B10	BOE 303	8/4/08	\$1,205.00
B11	BOE 312	8/4/08	\$500.00
B12	BOE 324-25	8/11/08	\$1,310.00 \$925.00
B13	BOE 337	8/11/08	\$1,100.00
B14	BOE 345	8/13/08	\$1,240.00
B15	BOE 353	8/22/08	\$1,170.00
B16	BOE 360	8/27/08	\$1,100.00
B17	BOE 367	10/20/08	\$750.00
B18	BOE 374, 379	1/21/09	\$1,520.00 \$1,170.00
B19	BOE 387	2/25/09	\$1,170.00
B20	BOE 394	2/20/09	\$1,240.00
B21	BOE 401	2/12/09	\$1,377.50
B22	BOE 408	2/9/09	\$1,455.00
B23	BOE 418	2/6/09	\$550.00
B24	BOE 431	3/11/09	\$1,117.50
Total			\$24,936.75

Submission of Information, Exhibit A. This evidence demonstrates that Respondents stood to gain financially, by obtaining work they otherwise may not have obtained, and therefore benefitted from the relationship.

In addition, BOE argues that there was an intangible benefit to Respondents in avoiding NVOCC liability, stating that because Respondents did not issue a house bill of lading, there was no bond to which the public could resort for problems with these shipments. Tr. at 20, *see also* Tr. at 16-17.

BOE has established that Respondents obtained a benefit from their arrangement with Island Cargo even though they were not the ones obtaining transportation at lower rates. It is therefore not necessary to reach the issue of whether the Section 10(a)(1) prohibition against obtaining transportation for less than applicable charges includes permitting others to obtain transportation for less than applicable charges. Accordingly, there is sufficient evidence to find that Respondents, themselves, benefitted from the fraud.

c. Knowing and Willful

Section 10(a)(1) of the Shipping Act prohibits any person from “knowingly and willfully” obtaining or attempting to obtain ocean transportation of property by various false activities, including false billing or classification, or by “any unjust or unfair device or means.” 46 U.S.C. § 41102(a). A person is considered to have “knowingly and willfully” violated the Shipping Act if the person had knowledge of the facts of the violation and intentionally violated or acted with reckless disregard, plain indifference, or purposeful, obstinate behavior akin to gross negligence. *Rose Int’l*, 29 S.R.R. at 164-165; *Portman Square Ltd.*, 28 S.R.R. 80, 84-85 (ALJ 1998); *Ever Freight Int’l*, 28 S.R.R. 329, 333 (ALJ 1998).

BOE alleges that Respondents knowingly and willfully, by means of an unfair device, obtained ocean transportation of property at less than the rates or charges than would otherwise be applicable. BOE Brief at 31. Specifically, BOE contends that OMJ entered into the Seaboard service contracts and permitted Island Cargo, an unrelated, unbonded, unlicensed foreign entity, to make twenty-four shipments under the service contracts.

Knowingly and willfully is both an element of a Section 10(a)(1) claim and a consideration in setting the appropriate civil penalty. *Compare* 46 U.S.C. § 41102(a) *with* 46 U.S.C. § 41107(a). BOE contends that the standard for knowing and willful is the same in Section 10(a)(1) and the civil penalty phase so that every violation of this section would be subject to higher penalties. BOE Remand Reply Br. at 6.

Having found that the Respondents’ conduct violated the Shipping Act, the evidence supports a finding that the violation was knowing and willful (*see, e.g.*, BOE 165 (RFA 42-43)). Accordingly, BOE has established by a preponderance of the evidence that Respondents violated Section 10(a)(1) of the Shipping Act when they allowed Island Cargo to access their 2008 service contract.

C. Civil Penalties

“BOE has the burden of establishing that a civil penalty should be imposed, and if so, the amount.” Remand at 22. Section 13(c) of the Act provides that in “determining the amount of a civil penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters justice may require.” 46 U.S.C. § 41109(b); *see also* 46 C.F.R. § 502.603(b). There “is no minimum penalty amount for violations found to be knowing and willful,” although often penalties for knowing and willful violations exceed the maximum for violations that are not knowing and willful. *Anderson Int’l Transport and Owen Anderson*, 32 S.R.R. 1678, 1693 (FMC 2013).

BOE seeks civil penalties of not less than \$6,000 for the Section 10 violations and not less than \$8,000 for the Section 19 violations. The Section 10 violations occurred between May 9, 2008, and March 11, 2009, when the \$6000 level would apply while the Section 19 violations occurred between January 26, 2010, and June 8, 2010, when the \$8000 level would apply. BOE Remand Br. at 15, 15 n. 8.

Respondents contend that the civil penalty should be consistent with the penalty imposed in the Initial Decision. Resp. Remand Br. at 2. Respondents seem to argue that there are no violations of Section 10(a)(1) justifying an additional civil penalty and no reason to impose any additional penalty for Section 19 violations. Mr. Collado states that “this has been my livelihood for many years and obviously, I will not be able to continue this at some point.” Tr. at 18.

Respondents’ income potential will be limited by the cease and desist order and denial of an OTI license already imposed in this proceeding. As discussed in the Initial Decision, it appears that Respondents have a limited ability to pay and there is no history of prior offenses. ID at 32-33. The evidence establishes nineteen violations of Section 10(a)(1), followed by fourteen violations of Section 19. Respondents’ conduct exposed the shipping public to risk and provided an unfair competitive advantage, in violation of the Shipping Act.

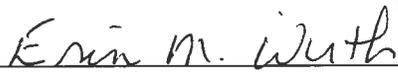
Giving due consideration to the nature, circumstances, extent, and gravity of the violation committed and, with respect to the Respondents, the degree of culpability, history of prior offenses, ability to pay, and other matters justice may require, Respondents are ordered to pay a penalty of \$114,000 for the nineteen violations of Sections 10(a)(1), and Respondents are ordered to pay a penalty of \$112,000 for the fourteen violations of Sections 19 of the Shipping Act. As affirmed by the Commission, the Respondents will be jointly and severally liable for the civil penalty.

III. ORDER

Upon consideration of the findings and conclusions set forth above and in the Commission's Remand, and the determination that the Respondents violated Sections 10(a)(1) and 19 of the Shipping Act (46 U.S.C. §§ 41102(a), 40901, 40902), it is hereby

ORDERED that the claim that Respondents violated Section 41102(a) of the Shipping Act of 1984, 46 U.S.C. § 41102(a), be **GRANTED**.

It is **FURTHER ORDERED** that the Respondents be jointly and severally liable for civil penalties totaling \$226,000 for willful and knowing violations of Sections 10(a)(1) and 19 of the Shipping Act of 1984, 46 U.S.C. §§ 41102(a), 40901, 40902.



Erin M. Wirth
Administrative Law Judge