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BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 13-05

AMENDMENTS TO REGULATIONS GOVERNING OCEAN TRANSPORTATION
INTERMEDIARY LICENSING AND FINANCIAL RESPONSIBILITY
REQUIREMENTS, AND GENERAL DUTIES

COMMENTS OF ROGERS & BROWN CUSTOM BROKERS, INC.

Founded in 1968, Rogers and Brown Custom Brokers, Inc. (hereafter R&B) is a privately held Customs Broker, Freight Forwarder, NVOCC and 3rd party Logistics provider. The company currently has eight locations, including the Headquarters located in Charleston, SC; holds licenses FMC# 1194, CHB# 4005, and IATA# 01-17027; and utilizes various agents throughout the world.

R&B is a member of the NCBFAA and as such we are familiar and concerned with the issues raised by the ANPRM.

We would like to advise that we are not in favor of the proposed requirement for all forwarders and NVOCCs to renew licenses every two years by filing an application and paying a fee. We believe this is unnecessary and burdensome to our organization as itemized below.

- 1. This is unnecessary because all OTIs are already required to keep the Commission informed of any changes in their corporate structure, officers and directors, and locations of their headquarters and branch offices.*

2. *If the Commission is concerned that some OTIs are not complying with this obligation, a simpler proposal would be to require all OTIs to file an annual certification, without requiring a formal application.*
3. *Requiring applications necessarily means that someone at the agency will be required to review and approve them, but the Commission has neither the staff nor budget to handle the added burden of doing this every two years for all OTIs.*
4. *This would require a significant expenditure of time to complete the application by our staff which is already fully engaged in providing services to our customer base, so it is an added burden to our business model.*
5. *There is no reason to have to pay any filing or user fee for this, as we are not seeking any benefit or new license from the Commission.*
6. *Requiring recent certificates of good standing to be filed as part of this application renewal process is costly and burdensome, and is unnecessary since the Commission can quickly obtain proof of a company's good standing when and if that issue becomes relevant.*
7. *In view of the information Commission staff often seeks during the process of reviewing a license application, there is reason for concern that the renewal process will take up a great deal of time looking for information that has little or no relevance to the company's performance.*
8. *It is unclear whether any problems the FMC might have with a QI at the time of license renewal would also jeopardize the license of the company.*

We are also not in favor of the proposal to increase the bond amount from \$50,000 to \$75,000 for ocean forwarders, from \$75,000 to \$100,000 for NVOCCs, and \$150,000 to \$200,000 for foreign registered NVOCCs.

- 1. This would be an increase in the cost of business for small OTIs such as ourselves, which just increases cost without providing any benefit in the services that are being provided.*
- 2. No good reason has been given for why any increase is appropriate.*
- 3. It is not clear why OTIs are being singled out for these increased bonds; if VOCCs go bankrupt or experience mishaps where a vessel sinks or it is necessary to declare general average, the shippers are hurt far worse, so why is the FMC focusing on OTIs?*
- 4. Most commercial shippers are insured against cargo loss and damage.*
- 5. If we had a legitimate claim from a shipper, we would pay it, so that there is no reason for anyone to proceed against our bond.*
- 6. If the real problem that the Commission is facing deals with the transportation of household goods for non-commercial shippers, there is no reason to increase the bonds for mainstream OTIs that do not handle such items.*
- 7. There is no indication in the ANPRM that any claim has been made against a licensed forwarder's bond, so that there is no rationale for increasing forwarder bonds.*

Additionally, we do not believe it is appropriate for the FMC to institute a priority system for paying claims that are made against bonds; as proposed, the Commission would require that

the sureties pay, first, any shippers with claims, then any carriers and OTIs; and third, any government claims.

- 1. There is no reason why shippers should have a priority over OTIs, since NVOs are also shippers in their relationship to the carriers.*
- 2. Similarly, if an OTI is a claimant, any monies that may be due from another OTI under the bond is money for which the claimant cannot be insured, unlike the situation with shippers, so we believe this practice would be unfair.*

Finally, we do not believe it is appropriate for the Commission to require carriers and sureties to file with the FMC a list of any claims made by them that relate in any way to the transportation activities of a forwarder or NVOCC, when that listing will be made public on the Commission's website.

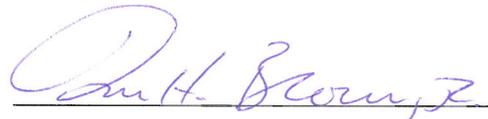
- 1. The publication by the FMC of claims made against OTIs, especially since those claims may have little or no merit, could be very damaging to the company.*
- 2. Even with a disclaimer that the Commission is not making any judgment about the veracity of the allegations, this listing would likely have a damaging effect on the company's reputation and would threaten its business and viability.*
- 3. When our company has valid claims against it, either it or its insurance companies pay those claims, so that there has never been an occasion when a claimant has been forced to move against our FMC bond; accordingly, this required publication has little or no relevance to the commercial realities of how business is done.*

Rogers & Brown does not agree with the proposed regulations relating to agents and their advertising. In that regard, the Commission proposes regulations requiring that any shipping

documentation or advertising by the agents bear the name and license number of the principal OTI, which in this case would be Rogers and Brown Custom Brokers, Inc.

1. *It is not clear which agents would be covered by the regulation.*
2. *It is not clear whether written agency agreements should really be required. Again, given the nature of the vast array of agency arrangements that necessarily arise in this industry, it may be impossible for any OTI to have a written arrangement with certain companies.*
3. *Many breakbulk agents, sales agents and other types of companies providing agency services represent a number of OTIs. It would therefore be very difficult, if not impossible, for them to always list the name of the relevant principal they are representing on all of their advertising.*
4. *It is not clear why any regulation of this nature is required, since the principal would always be responsible for the actions of the agent anyway; accordingly, why impose new regulations that relate to how the principal and agent interact?*
5. *If the real problem the FMC is having relates to agents moving household goods in the so-called barrel trade, it is not clear why the Commission should be imposing these new regulations on regular, commercial OTIs.*

DATED: August 9, 2013



Don H. Brown, JR

Title: President