

FEDERAL MARITIME COMMISSION

DOCKET NO. 14-14

FILED

FEB 05 2015

Federal Maritime Commission
Office of the Secretary

MARK BARR

v.

OCEAN TRADE LINE, INC.

JOINT MOTION TO DISMISS

Pursuant to Rule 72(a)(3) of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.72(a)(3), Complainant, with the consent of the Respondent and BOE (party pending intervention), hereby motions to dismiss with prejudice its claims against Respondent Ocean Trade Line, Inc.

Rule 72(a)(3) provides that an action may be dismissed at the complainant's request only by order of the presiding officer on terms the presiding officer considers proper. The rule further requires submission of the settlement agreement between the parties, and a determination that the terms of the settlement do not violate any law or policy. Finally, presiding officer must also assess whether the settlement is free of fraud, duress, undue influence, mistake, or other defect. *Old Ben Coal Co. v. Sea-Land Service, Inc.*, 18 S.R.R. 1085, 1091 (ALJ 1978). The settlement agreement is attached hereto as Attachment A.

Under the terms of the attached settlement agreement, Respondent agrees to make a refund to the Complainant in the amount of \$15,000.00. Further, Respondent has agreed to

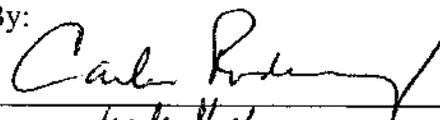
modify both its tariff filing and refund practices to ensure that such future practices do not violate of the Shipping Act of 1984, namely, 46 U.S.C. 41102(c), 41104(2), 41104(3) and 41104(4), and the Commission's regulations. Attached to the settlement agreement are the revised terms and conditions of Respondent's shipping contract and Respondent's revised cancellation and release form. These documents collectively evidence the substantive changes in the Respondent's refund practices. These changes include: (1) obligation to provide a refund in 15 days rather than 60 days; (2) requiring Respondent to commence transport within 120 days, rather than 12 months, from the first requested pick up date or estimated shipping date; (3) elimination of language in Respondent's cancellation and release form which prohibits the shipper from disclosing details of their transaction with the Respondent to the public or any state or federal agency; (4) elimination of language in the shipping contract which appeared to disclaim Respondent's liability as an non-vessel operating common carrier; (5) publication of both the revised shipping contract and its cancellation and release form in Respondent's tariff. In consideration for the refund paid to the Complainant as well as revisions to Respondent's carrier practices, refund practices and tariff which will better protect the shipping public, Complainant and BOE consent to this action being dismissed with prejudice.

The parties, including BOE, submit that this settlement is fair, reasonable and adequate; and is furthermore free of fraud, duress, undue influence, mistake, or other defect. The parties, further submit that after balancing the costs, complexity and likelihood of success of continued litigation, have determined that the settlement is in the best interest of all parties and interests. Finally, the parties submit that the settlement does not itself violate any provision of law or policy, and these prospective changes in Respondent's carrier practices and refund policies will benefit future shippers and customers.

For the forgoing reasons, the parties, by and through the Complainant, hereby respectfully request that the presiding officer: (1) approve the attached settlement agreement; and, (2) dismiss this action with prejudice.

Respectfully submitted,

By:



Carl Rodney
on behalf of

Mark Barr
Elgin, Calsho Road, Fawley
Southampton Hants SO45
1DW, United Kingdom.
Phone no. +442380894428
E-mail: barr_mg@yahoo.co.uk

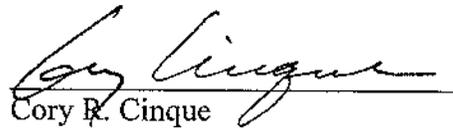
Dated in Washington, D.C., this third day of February, 2015

CERTIFICATE OF SERVICE

As requested by the Complainant, I hereby certify that on this day, February 5, 2015, the foregoing Joint Motion to Dismiss has been served upon Respondent through their counsel via electronic mail and courier at the following addresses:

JONATHAN S. COOPER, ESQ.
BLANCK & COOPER, P.A.
5730 S.W. 74 STREET, SUITE 700
MIAMI, FLORIDA 33143
EMAIL: jcooper@shiplawusa.com

Signed in Washington D.C. on February 5, 2015.


Cory R. Cinque