

# FEDERAL MARITIME COMMISSION

NGOBROS AND COMPANY  
NIGERIA LIMITED

v.

OCEANE CARGO LINK, LLC, and  
KINGSTON ANSAH, individually

Docket No. 14-15

Served: May \_\_\_\_, 2016

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**BY THE COMMISSION:** Mario CORDERO, *Chairman*, Richard A. LIDINSKY, Jr. and William P. DOYLE, *Commissioners*; Rebecca F. DYE, *Commissioner*, and Michael A. KHOURI, *Commissioner*, dissenting.

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## **Order Staying Proceeding**

On November 10, 2015, the Administrative Law Judge (ALJ) issued an Initial Decision determining that Respondents Oceane Cargo Link, LLC (OCL) and Mr. Kingston AnsaH violated section 10(d)(1) of the Shipping Act, 46 U.S.C. § 41102(c), and awarding reparations to Complainant. Pursuant to a Commissioner's request, the Federal Maritime Commission (Commission) determined, on November 24, 2015, to review the Initial Decision.

## **I. Respondent Kingston Ansah**

While the Commission was reviewing the Initial Decision, Respondent Kingston Ansah filed a Chapter 13 Bankruptcy Petition with the United States Bankruptcy Court, Northern District of Georgia, Case No. 16-51822-a998. Complainant's Status Report, Feb. 16, 2016.

Therefore, pursuant to the Bankruptcy Code, 11 U.S.C. § 362(a)(1),<sup>1</sup> this proceeding is stayed with respect to Respondent Kingston Ansah, including the Commission's review of the ALJ's decision that Mr. Kingston Ansah and OCL are jointly and severally liable for reparations.

## **II. Respondent Oceane Cargo Link, LLC**

In his Bankruptcy Petition, Mr. Ansah identified Respondent OCL as a codebter. Because § 362(a)(1) only refers to the debtor, the "stays are generally limited to debtors and do not encompass non-bankrupt co-defendants." *Lisa Ng v. Adler (In re Adler)*, 494 B.R. 43, 57 (Bankr. E.D.N.Y. 2013) (internal quotation marks omitted). However, "if certain unusual circumstances arise during the pendency of a debtor's bankruptcy case, a bankruptcy court may enjoin actions against third-parties." *Id.* (citing *A.H. Robins Co., Inc. v. Piccinin*, 788 F.2d 994, 999 (4th Cir. 1986)).

One example of such unusual circumstances is "when a claim against the non-debtor will have an immediate adverse

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<sup>1</sup> Section 362 of the Bankruptcy Code, 11 U.S.C. § 362(a)(1), provides that:

(a) . . . a petition filed under section 301, 302, or 303 of this title . . . operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

economic consequence for the debtor's estate." *Id.* (quoting *Queenie, Ltd. v. Nygard Int'l*, 321 F.3d 282, 287 (2d Cir. 2003)). "[C]ourts have found the requisite economic harm to an individual debtor when the veil of a non-debtor corporation is pierced based on the alter ego doctrine, as the individual debtor has thereby been rendered personally liable for the relevant corporate debts." *Id.* at 57–58 (citing *S.I. Acquisition, Inc. v. Eastway Delivery Serv. (In re S.I. Acquisition, Inc.)*, 817 F.2d 1142, 1147 (5th Cir. 1987)); *In re Kuecker Equip. Co.*, 338 B.R. 52, 60–61 (Bankr. W.D. Mo. 2006)).

In this proceeding, the ALJ concluded in the Initial Decision that "Mr. Ansah did not appear to separate his personal interests from that of Ocean[e] Cargo Link. The evidence supports the Complainant's allegation that Mr. Ansah established and controlled Oceane Cargo Link. Accordingly, the evidence is sufficient to pierce the corporate veil and hold Kingston Ansah personally liable for the acts of Oceane Cargo Link." Initial Decision at 13. Considering the possibility that the Commission may affirm the ALJ's determination that Mr. Ansah was an alter ego of OCL, we believe that the proceeding against OCL must also be stayed under § 362(a)(1).

### **III. Conclusion**

THEREFORE, IT IS ORDERED, That this proceeding is stayed with respect to both Kingston Ansah and Oceane Cargo Link, LLC.

IT IS FURTHER ORDERED, That Complainant is directed to inform the Commission if and when the Bankruptcy Court lifts the stay.

By the Commission.

Karen V. Gregory  
Secretary