

**FEDERAL MARITIME COMMISSION**

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**DOCKET NO. 14-16**

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**BALTIC AUTO SHIPPING, INC.**

**v.**

**MICHAEL HITRINOV a/k/a MICHAEL KHITRINOV and  
EMPIRE UNITED LINES CO., INC.**

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**AFFIRMATION OF JON WERNER IN SUPPORT OF  
MOTION FOR LEAVE TO INTERVENE AND FOR  
EXTENSION OF TIME TO OPPOSE COMPLAINANT'S  
MOTION FOR LEAVE TO AMEND COMPLAINT**

Jon Werner, affirms the following to be true under penalties of perjury under 28 U.S.C. § 1746, and says:

1. I am an attorney licensed to practice in the states of New York and New Jersey, and the Federal courts therein, and a partner of Lyons & Flood, LLP, which represents the Respondents in matters pending before the United States District Courts for the Eastern District of New York and the District of New Jersey.

2. One of the matters in which I and my firm represent the Respondents with respect to, is an action commenced by Respondents in the District of New Jersey against the Complainant and its principal, Mr. Andrejus Presniakovas, seeking enforcement of a Settlement Agreement and Mutual Release entered into by Complainant with the Respondents on November 29, 2011. It is the Respondents' position in that District of New Jersey matter (as well as in this matter) that Complainant's commencement of this matter represents a breach of the Settlement Agreement and Mutual Release.

3. On April 28, 2015, I learned from counsel for the Respondents that the Complainant had filed a Motion for Leave to Amend its Complaint. In this motion Complainant

seeks to add myself and my firm (Lyons & Flood, LLP) as Respondents in this matter, under a theory that my firm and I “violated 46 U.S.C. §41104(3) by retaliating against the Complainant because the Complainant has filed a complaint with the Commission” by representing the Respondents in various proceedings, including the District of New Jersey proceeding described above.

4. While I dispute that myself and my firm are subject to the jurisdiction of the FMC, and all rights to challenge that jurisdiction are specifically reserved by myself and my firm as per Rule 21, I nevertheless believe that I satisfy the requirements set forth under Rule 68 to qualify for intervention as of right because Complainant is seeking to amend its Complaint to add myself and my firm as Respondents in this matter.

5. In short, my firm and I should be given the right to oppose Complainant’s Motion for Leave to Amend its Complaint to add us as Respondents in this matter.

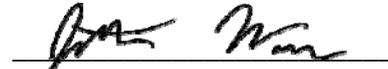
6. In addition, I am seeking an extension of the briefing schedule for Complainant’s Motion for Leave to Amend its Complaint. Specifically, I am asking for the deadline to oppose this motion to be extended until May 18, 2015.

7. The reason this extension is needed is that I first learned about the motion from counsel for Respondents on April 28, 2015, and I am scheduled to be in Europe all next week for depositions in other matters. Thus, I will not be back in my office until May 11, 2015, and therefore will not have adequate time to prepare an opposition to the Complainant’s motion under the current briefing schedule, which calls for opposition papers to be filed by May 4, 2015.

8. Complainant will not suffer any prejudice from the extension of the briefing schedules. I telephoned Complainant’s counsel three times today to try to speak with him about this request for an extension of the briefing schedule, but all of the calls went straight to his voicemail.

The foregoing is true and correct to the best of my knowledge under penalties of perjury under  
28 U.S.C. § 1746.

Executed on April 29, 2015

  
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Jon Werner