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October 7, 2016

Office of Administrative Law Judges
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573-0001
Attn: Chief Administrative Law Judge Clay G. Guthridge

Re: *Baltic Auto Shipping, Inc. v. Michael Hitrinov a/k/a Michael
Khitrinov, Empire United Lines Co., Inc.*
FMC Docket No.: 14-16

Dear Honorable Judge Guthridge:

I apologize in advance for communicating directly with the Presiding Officer in such an unorthodox manner, but am compelled to do so due to ‘extraordinary circumstances’ detailed below.

As an Officer of the Court, I feel that it is my ethical duty and responsibility to communicate directly with the Presiding Officer as to the attempted perpetration of a fraud upon the Commission in the above referenced matter.

As the Presiding Officer is aware, there is currently a motion pending to dismiss this matter with prejudice, and without costs or attorneys’ fees to either party.

As the Presiding Officer is further aware, respondent Hitrinov herein had previously *waived* any and all rights to costs or attorneys’ fees arising out of this action, as part of a separate Settlement Agreement (an unredacted copy of which has been filed *in camera* with the Office of the Secretary), and as confirmed in a settlement conference made “on the record” (a transcript from which was also provided in Complainant’s motion papers). Significantly, it should be noted that it is respondent, Hitrinov *himself* who *personally* insisted that the settlement reached in the matter of *Empire United Lines Co. Inc. v. Baltic Auto Shipping Inc. et al.* (U.S.D.C. – D.N.J. Docket No.: 2:15-cv-00355-CCC-MF) *specifically include* a provision containing language waiving *all* rights, costs and attorneys’ fees in “the FMC matter” as to *all* parties.

Having purposefully extracted such waiver as it may have benefitted him in the Baltic matter, *supra*, respondent, Hitrinov now seeks, through his counsel, Gerard Doyle, Esq. and through Hitrinov’s prior counsel, Jon Werner, Esq. who has openly interfered with the orderly disposition of this matter through collusion with Mr. Doyle, to *defraud* the Commission by opposing complainants’ motion to the extent that the relief requested include a waiver of costs and attorneys’ fees as previously agreed to by respondent, Hitrinov before a United States Federal District Court Judge.

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Complainant further made multiple “good faith” attempts with Mr. Doyle to dispose of this matter via stipulation; sent a ‘good faith’ letter prior to resorting to motion practice; and additionally took the extraordinary step of a further and final ‘good faith’ attempt to have Mr. Doyle withdraw his fraudulent opposition to complainant’s motion, and advising that should Mr. Doyle fail to do so that complainant would notify the Honorable Judge Claire Cecchi, and the Honorable Magistrate Judge Mark Falk of the United States District Court for the District of New Jersey (both of whom presided over the Baltic matter) of respondent Hitrinov’s fraudulent attempt to derogate from the stipulation and agreement that he entered into therein *waiving* all rights to costs and attorneys’ fees in “the FMC matter”.

In sum, it is respectfully submitted that a denial of complainant’s instant motion would reward respondent Hitrinov for violating his prior stipulation and agreement set forth above, and as described more fully in complainant’s pending motion.

In closing, we are notifying Hon. Judge Cecchi and Hon. Magistrate Falk of respondent Hitrinov’s fraudulent acts by his counsel, Mr. Doyle and his prior counsel, Mr. Werner by copy of this letter, and putting Messrs. Doyle and Werner on notice of the undersigned’s intention to refer this matter to all applicable regulatory bodies, as well as a potential reference for criminal prosecution, if deemed necessary.

I have taken the liberty of further copying the Office of the Secretary with this letter, should the Presiding Officer feel that the issues raised herein should be more properly directed to the Commission, and not to the Presiding Officer.

I again apologize for communicating directly with the Presiding Officer in such an unorthodox manner but felt compelled to do so due to the extraordinary circumstances and seriousness of the actions of respondent, Hitrinov by his counsel, both past and present, described above.

Respectfully submitted,


Marcus A. Nussbaum, Esq.

Cc: **Via Facsimile (973)-645-3097 and First Class Mail**
Honorable Judge Claire C. Cecchi
United States District Court
District of New Jersey
50 Walnut Street
Newark, NJ 07102

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Magistrate Judge Mark Falk
United States District Court
District of New Jersey
50 Walnut Street
Newark, NJ 07102

Via Email to secretary@fmc.gov

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Attn: Rachel E. Dickon, Assistant Secretary

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