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January 30, 2015

Via email: secretary@fmc.gov

Federal Maritime Commission
800 North Capitol Street, N.W
Washington, D.C. 20573

Att: Office of the Secretary

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

Respondents' Reply to Complainant's Response in opposition to Respondents'
request for a Stay of Proceeding on the grounds of parallel proceeding

Dear Office of the Secretary,

Respondents' make this reply pursuant to Federal Maritime Commission Rule of Practice No. 71 (46 CFR 502.71 (c)), as there are extraordinary circumstances, to wit, the Complainant's argument that the decision of the District Court of New Jersey not to grant injunctive relief to the Respondents herein renders the Respondents' request for a stay of the instant Proceeding moot.

Complainant is in material, plain error. Such error, if left uncorrected could mislead this tribunal. Such are the extraordinary circumstance justifying the Respondents' reply.

The proceeding in the District Court of New Jersey to determine whether and to what extent the Dismissal of the Complainant's 2011 action with prejudice (along with the Settlement Agreement and Mutual Release) bars the instant action before the Federal Maritime Commission remains in place. The decision in the New Jersey case may make the instant proceeding moot, or may severely narrow the issues, as the shipments covered by the Complainant's Complaint herein appear to be precisely the ones being litigated in the New Jersey action. Accordingly, this Proceeding should be stayed in the interest of

judicial economy, justice and to avoid of potentially inconsistent rulings by Executive Branch and Legislative Branch tribunals.

Deference should be given to the New Jersey action, and the instant Proceeding stayed because:

1. The proceeding in the District of New Jersey is merely the continuation of the 2011 case, albeit before a different Judge – but the shipments complained of appear to be the identical shipments as were involved in the 2011 case, and in the instant Proceeding.
2. The District Court case is therefore the earlier filed concerning the matters complained of herein.
3. Judicial economy requires this Proceeding to be held in abeyance in order to avoid duplicative litigation, potentially inconsistent rulings, judicial economy and needless expense to the parties.
4. Further, the District Court is in the best position to analyze and rule on the effect of a Dismissal, with prejudice of an action otherwise properly before it.
5. In addition, the District Court is in the best position to properly construe a Settlement Agreement and General Release that specifically invokes and records the Parties' consent to having the District Court retain jurisdiction – especially in the enforcement of the Settlement Agreement – the precise relief being sought in the ongoing New Jersey action. (The Settlement Agreement provides: “10. Enforcement ... the Court shall retain jurisdiction over the enforcement of this Agreement.”)
6. In sum, the Complainant's filing of its Complaint herein was problematic and most important, a waste of judicial resources while causing needless additional expense for the Respondents.

In conclusion, Respondents' again request that this Proceeding be stayed pending the narrowing, and perhaps mooted of the issues raised herein by the proceeding now going forward in the District Court of New Jersey.

Respectfully submitted,



Gerard S. Doyle, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the Respondents' Reply to Complainant's Response in opposition to Respondent's request for a stay of proceeding. **upon** Complainant's counsel, Marcus A. Nussbaum, Esq., with the address of P.O. Box 245599, Brooklyn, NY 11224 by first class mail, postage prepaid, by fax (347-572-0439) and by email (marcus.nussbaum@gmail.com); and that the original and five (5) copies are being filed with the Secretary of the Federal Maritime Commission.



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Dated in Short Hills, NJ. this thirtieth day of January, 2015.