

FEDERAL MARITIME COMMISSION

DOCKET NO. 15-03

**JOHN T. BARBOUR t/d/b/a BARBOUR AUTO GROUP; BARBOUR AUTO SALES;
BARBOUR SHIPPING; AND BARBOUR SHIPPING AND TRANSPORTATION INC. —
POSSIBLE VIOLATIONS OF
SECTIONS 8 AND 19 OF THE SHIPPING ACT**

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FEDERAL MARITIME COMMISSION

BUREAU OF ENFORCEMENT'S STATUS REPORT

The Bureau of Enforcement (BOE) submits this status report in lieu of the joint status report required by the Initial Order served in this proceeding on June 9, 2015.

On May 27, 2015, the Commission issued an Order of Investigation and Hearing (Commission Order) initiating this proceeding naming John T. Barbour as Respondent, making BOE a party, and ordering Respondent to file with the Commission and serve upon BOE a verified Answer to the allegations in the Commission Order within 25 days of publication in the Federal Register. The Commission Order was published June 2, 2015, thereby requiring Respondent to file and serve its answer on or before June 29, 2015.¹ To date, Respondent has not filed an answer or otherwise entered an appearance in this proceeding.

¹ BOE has been advised that the Commission's Office of the Secretary received verification from UPS that Respondent received the Commission Order on May 28, 2015.

The Administrative Law Judge's (ALJ) June 9 Initial Order in this proceeding set forth, among other things, a schedule of requirements to be met by BOE and Respondent, the timing of each to be computed from the date of service of Respondent's answer.

On June 17, 2015, BOE filed and served on Respondent a Notice of Appearance. The same day, BOE served discovery upon Respondent via United Parcel Service (UPS) requiring responses within 30 days of service. BOE also communicated to Respondent via the "Contact Us" page on the Barbour Auto Sales Website (<http://www.barbourautosales.com/contactus.aspx>) on July 13, 2015. BOE received verification from UPS that Respondent received BOE's discovery requests on June 18, 2015.

To date, Respondent has not filed with the Commission or served on BOE an Answer to the Commission Order, entered an appearance, responded to BOE's discovery, or made any contact with BOE.² Therefore, it appears that Respondent has elected not to contest the allegations³ in the Commission Order and is in default. See 46 C.F.R. §502.65.

In the absence of any Answer, BOE respectfully submits that the ALJ should issue a Notice of Respondent's default and order Respondent to show cause why the well pleaded factual allegations in the Commission's Order should not be given conclusive evidentiary effect as provided in Rule 63 of the Commission's Rules of Practice and Procedure, 46 C.F.R. §502.63.

² The Initial Order directed the parties to participate in a preliminary conference with the Commission's Office of Consumer Affairs and Dispute Resolution Services pursuant to Rule 64. However, Rule 64 does not apply to Commission enforcement proceedings. See Docket No. 11-05, 77 Fed. Reg. 61519, 61522 (Oct. 10, 2012).

³ Pursuant to 46 U.S.C. 41307, the Commission is seeking a preliminary injunction against Respondent in U.S. District Court for the District of Massachusetts, filed on June 12, 2015, in *Federal Maritime Commission v. John T. Barbour*, case no. 1:15-cv-12326-DLC, based on the same allegations recited in the Commission Order. The Commission's Office of General Counsel advises that Respondent has appeared through counsel and agreed to stipulate to entry of the preliminary injunction.

If Respondent declines or fails to respond to such directive, BOE will promptly submit to the ALJ a proposed schedule by which BOE will file its evidentiary case, together with a motion for decision thereon, sufficient to permit the ALJ to make necessary findings of fact and conclusions of law with respect to the issues set forth in the Commission's Order.

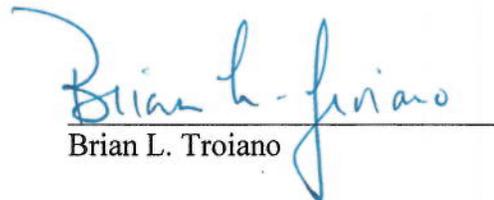
Respectfully submitted,



Peter J. King, Director
Brian L. Troiano, Deputy Director
Brenda Doty, Attorney
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Federal Maritime Commission
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CERTIFICATE OF SERVICE

I hereby certify that the Bureau of Enforcement's Status Report was served upon John T. Barbour t/d/b/a Barbour Auto Group; Barbour Auto Sales; Barbour Shipping; and Barbour Shipping and Transportation Inc. at 146 South St. West, Raynham, MA 02767, and at 735 Pleasant St., Fall River, MA 02723 by first class U.S. mail with postage prepaid this 23rd day of July, 2015.



Brian L. Troiano