

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 15-04

CROCUS INVESTMENTS, LLC AND CROCUS, FZE

(Complainants)

v.

**MARINE TRANSPORT LOGISTICS, INC. AND
ALEKSANDR SOLOVYEV a/k/a ROYAL FINANCE GROUP INC.**

(Respondents)

**OPPOSITION TO COMPLAINANTS' MOTION FOR AN ENLARGEMENT OF
TIME TO FILE EXCEPTIONS**

Respondents Marine Transport Logistics, Inc. and Aleksandr Solovyev, through its undersigned counsel, respectfully submits this Opposition to Complainants' September 5, 2016 Motion to Enlarge Time for Filing Exceptions.

As a preliminary matter, although Complainants' counsel states that "On September 5, 2016, counsel for Complainants attempted to consult with counsel for respondents regarding this motion", the undersigned counsel has no record of any missed telephone calls or emails from Complainants' counsel on September 5, 2016 or at any other time during the September 3-4, 2016 long holiday weekend. In any event, Respondents oppose Complainants' Motion – Complainants *second* motion for an enlargement of time to file Exceptions – and submit that good cause has not been shown, for the following reasons:

1. The Presiding Officer issued the Initial Decision in this matter on June 17, 2016.

2. The Initial Decision required Exceptions to be filed within 22 days of the Initial Decision. Exceptions were required to be filed as of July 11, 2016. [22 days from June 17, 2016 was Saturday, July 9, 2016.]

3. On June 29, 2016, Complainants' prior counsel moved to withdraw as counsel and filed a *first* "Motion for Enlargement of Time For Filing Exceptions to Initial Decision."¹ In Complainants' June 29, 2016 *first* motion, Complainants' prior counsel requested an enlargement of time from July 11, 2016 to August 25, 2016, in order "to allow the new attorney to adequately represent [Complainants'] interests." See Exh. A., at ¶ 2.

4. On July 6, 2016, the Commission granted Complainants a *60-day* enlargement of time to September 12, 2016 for filing Exceptions.²

5. On September 5, 2016, Complainants' present counsel filed the instant motion seeking, in effect, a *second* enlargement of time to file Exceptions. But, this time Complainants seek a substantial enlargement of time of 143 days (from September 12, 2016 to February 2, 2017.)

6. When viewed in conjunction with the 60-day extension *already* granted by the Commission from July 11, 2016, the resulting delay would be substantial: the requested time to file Exceptions of, effectively, 203 days from July 11, 2016 to February 2, 2016 is 181 days (6 months) *more* than the *entire* 22-days provided for under Rule 227.

¹ A copy of Complainants' June 29, 2016 motion is attached as Exh. A.

² A copy of the Commission's July 6, 2016 Order is attached as Exh. B.

7. Respondents respectfully submit that Complainants have not demonstrated the good cause necessary to justify such a substantial enlargement of time.

8. In this regard, Complainants' stated "good cause" for this substantial enlargement of time is that the matter will allegedly "require the review and analysis of hundreds pages of documents, most of which are other than in English." See Complainants' September 5, 2016 motion, at p. 2, ¶ 7. Respondents disagree with Complainants' assertions.

9. First, the Initial Decision was decided on the basis that the Complainants failed to state a Shipping Act claim. This is, essentially, a dismissal on legal grounds. There is, thus, no record, findings of fact, or documents that should require exhaustive review and analysis beyond the 22-days provided for under Rule 227 or the 60 additional days already granted by the Commission.

10. Second, any non-English documents are *immaterial* to the filing of Exceptions. Specifically, and in accordance with the Administrative Law Judge's September 9, 2015 Scheduling Order, Complainants produced English translations of *all documents* in Complainants' Appendix.³⁴ See Exh. C at p. 3, ¶ 3(d) ("Each party shall ensure that all documents in its appendix are in English and legible").

11. Thus, English translations exist for all documents submitted in the Appendices. Any non-English documents which were not translated or which were not submitted in Complainants' Appendix are and were outside the scope of review in the Initial Decision and any to-be-filed Exceptions.

³ A copy of the September 9, 2015 Scheduling Order is attached as Exh. C.

⁴ Complainants' March 17, 2016 Certificate of Translation for the documents in Complainants' Appendix, is attached as Exh. D.

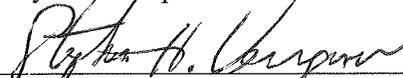
12. Lastly, and perhaps most importantly to put Complainants' request into proper context, Complainants' requested 143-days enlargement of time is only 7 days fewer than the 150-days provided under Rule 201(g) for the *completion of all discovery*. The 203-days that Complainants seek from July 11, 2016 to February 2, 2017 is *more* time than the parties needed to complete discovery. To put it another way, the parties were able to exchange discovery, locate documents, conduct depositions, attend mediations, resolve disputes, etc., all in *less* time than Complainants' counsel now argues is needed to file Exceptions.

13. Even if "hundreds of pages" of documents needed to be reviewed and analyzed, which Respondents disagree with, common sense should prevail. There is no justification for Complainants needing 143-days to file Exceptions. Lest it be forgotten, Complainants have *already* previously obtained a 60-day extension of time from the Commission – which, itself, was more than the time initially requested by Complainants' prior counsel and substantially more than the 22-days provided for in Rule 227.

14. For all the foregoing reasons, and given the absence of good cause being shown, Respondents oppose Complainants' requested second enlargement of time to file Exceptions.

Dated: September 6, 2016
New York, NY

Respectfully submitted,
MONTGOMERY McCracken
WALKER & RHOADS, LLP
Attorneys for Respondents

By: 
Stephen H. Vengrow
Eric Chang
437 Madison Ave, 29th Floor

New York, NY 10022
212-551-9500

CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury that the following is true and correct:

1. I am over the age of eighteen years and I am not a party to this action.
2. On September 6, 2016, I served a complete copy of Respondent's OPPOSITION TO COMPLAINANTS' MOTION FOR AN ENLARGEMENT OF TIME TO FILE EXCEPTIONS, in Docket No. 15-04 by E-mail and U.S. Mail to:

Original and 5 Copies to:

Secretary, Federal Maritime Commission
800 N. Capital St., NW.
Washington DC 20573-0001
secretary@fmc.gov

Copy to:

Marcus A. Nussbaum, Esq.
P.O. Box 245599
Brooklyn, NY 11224
marcus.nussbaum@gmail.com



Eric Chang

Dated: September 6, 2016
New York, New York

Respondents' Opposition – Exh. A

FEDERAL MARITIME COMMISSION

DOCKET NO.: 15-04

CROCUS INVESTMENTS, LLC AND CROCUS, FZE

v.

**MARINE TRANSPORT LOGISTICS, INC. AND ALEKSANDR SOLOVYEV
a/k/a ROYAL FINANCE GROUP INC.**

**COMPLAINANTS' MOTION FOR ENLARGEMENT OF TIME FOR FILING
EXCEPTIONS TO INITIAL DECISION**

Pursuant to Rule 228 of the Federal Maritime Commission's ("the Commission") Rules of Practice and Procedure, 46 C.F.R. § 502.228, Complainants Crocus Investments, LLC and Crocus, FZE hereby request an additional forty-five (45) day enlargement of the time to file exceptions to the Initial Decision served in this proceeding on June 17, 2016. Pursuant to Rule 71, Complainant's undersigned counsel has conferred by telephone with the Respondents' counsel regarding this request to enlarge time but the Respondents did not consent to the enlargement of time.

Good cause exists for an enlargement of time to file exceptions because:

1. The Complainants' officers are not proficient in English and Complainants need additional time to have the twenty-seven (27) pages of the Initial Decision translated into Russian so that their officers can fully understand the contents and assist their counsel in representing

them before the Commission. Such a voluminous translation will require at least two weeks to complete; and

2. Complainants and their undersigned counsel have come to a fundamental disagreement in this matter and it has become apparent that Complainants will need to seek new counsel to represent their interests going forward. Complainants' new counsel will need additional time to review the case file, read the Initial Decision, perform legal research, and draft the exceptions. Therefore, Complainants will need additional time to substitute attorneys and allow the new attorney to adequately represent their interests.
3. Rule 228 requires that the request for enlargement of time to file exceptions be submitted at least seven days before the existing deadline. The deadline to file the exceptions is twenty-two (22) days from the date of service and is July 9, 2016 but since the due date falls on a weekend (Saturday), pursuant to Rule 101 the actual due date is Monday, July 11, 2016. Therefore, this request, being filed on June 29, 2016 is within the requisite time frame.

WHEREFORE, Complainants Crocus Investments, LLC and Crocus, FZE request that the Commission grant this motion and enlarge the time for filing exceptions to the Initial Decision until August 25, 2016.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served by mailing and emailing a copy to the persons listed below on June 29, 2016:

Stephen H. Vengrow

Eric Chang
Montgomery, McCracken,
Walker & Rhoads, LLP
437 Madison Ave., 29th Floor
New York, NY 10022

Dated: June 29, 2016

s/Louiza Tarassova

Louiza Tarassova, Esq.
Attorney for Complainants
Florida Bar Number: 96149
The Law Office of Louiza Tarassova, P.A.
1420 Lake Baldwin Lane Unit A
Orlando, FL 32814
Telephone: (407) 622-1885
Fax: (407) 536-5041
E-Mail: louiza@mylawadvocate.com
Secondary E-Mail: service@mylawadvocate.com

Respondents' Opposition – Exh. B

(S E R V E D)
(JULY 6, 2016)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 15-04

CROCUS INVESTMENTS, LLC AND CROCUS, FZE

v.

**MARINE TRANSPORT LOGISTICS, INC. and
ALEKSANDR SOLOVYEV a/k/a ROYAL FINANCE GROUP INC.**

NOTICE OF EXTENSION OF TIME TO FILE EXCEPTIONS

This proceeding is before the Commission on an Administrative Law Judge's June 17, 2016 Initial Decision. Complainants Crocus Investments, LLC and Crocus, FZE, have filed a request for an extension of time to file exceptions. Complainants' counsel has also filed a Motion for Leave to Withdraw, which will be disposed of in a separate order.

Good cause being shown, a 60-day extension of time to file exceptions is granted. The time for filing exceptions to the Initial Decision is extended from July 11, 2016 to September 12, 2016. Replies to exceptions are extended from August 9, 2016 to October 11, 2016. Correspondingly, the time for issuance of the Commission's final decision is extended from December 19, 2016 to February 20, 2017.

Karen V. Gregory
Secretary

Respondents' Opposition – Exh. C

S	E	R	V	E	D
September 9, 2015					
FEDERAL MARITIME COMMISSION					

FEDERAL MARITIME COMMISSION

DOCKET NO. 15-04

CROCUS INVESTMENTS, LLC AND CROCUS, FZE

v.

**MARINE TRANSPORT LOGISTICS, INC. AND ALEKSANDR SOLOVYEV a/k/a
ROYAL FINANCE GROUP INC.**

SCHEDULING ORDER

The June 19, 2015, Initial Order issued in this proceeding required the parties to file a joint status report with proposed schedule within twenty days of the filing of the Answer, or on July 30, 2015. On August 20, 2015, the parties filed a stipulated discovery plan.

The Initial Order included a requirement to discuss dispute resolution. The parties' plan to "attempt to arrange mediation in October 2015" did not meet the requirement.

Pursuant to Rule 64, within fifteen days of the service of a respondent's answer, the parties "must participate in a preliminary conference with the Commission's Office of Consumer Affairs and Dispute Resolution Services (CADRS) as to whether the matter may be resolved through mediation. The preliminary conference may be conducted either in person or via telephone, video conference, or other forum." 46 C.F.R. § 502.64. The proceeding will not be stayed during the dispute resolution process. In the joint status report, the parties must state whether each party has contacted CADRS and whether the parties have agreed to engage in mediation. The parties are directed *not* to state the parties' positions on whether to agree to mediation or their settlement positions in the joint status report.

Initial Order at 1. The parties have not indicated whether or not they have contacted CADRS. The parties are required to contact CADRS immediately and to indicate in the next status report whether the required contact has been made. The parties are encouraged to pursue mediation at any point in the proceedings.

As stated in the Initial Order, as well as the Commission's June 15, 2015, Notice of Filing of Complaint and Assignment, the Initial Decision in this proceeding must be filed by June 13, 2016. The parties indicate that initial disclosures and service of preliminary discovery requests was scheduled for July 31, 2015, and responses to preliminary discovery requests would be served by August 31, 2015. The schedule below incorporates the parties' proposed dates for discovery and also includes the briefing schedule to ensure the parties proceed in an efficient manner.

The parties shall schedule time to complete all depositions, supplemental discovery, and to have discovery motions resolved prior to the discovery cut-off date. They shall be prepared to proceed without any discovery requested after the discovery cut-off date.

To ensure timely progress, the parties will be required to file joint status reports on the first day of every month, beginning on October 1, 2015. In addition, all requests for extensions will be reviewed for good cause, even if the parties agree on the requested extension.

For the reasons stated above, it is hereby:

ORDERED that the parties abide by the following schedule:

December 7, 2015	All discovery completed.
January 14, 2016	Complainants file proposed findings of fact, brief, and appendix.
February 11, 2016	Respondents file proposed findings of fact, brief, and appendix.
February 25, 2016	Complainants file reply brief.

The parties are reminded that a "scheduling order 'is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril.'" *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610 (9th Cir. 1992) (quoting *Gestetner Corp. v. Case Equipment Co.*, 108 F.R.D. 138, 141 (D. Me. 1985)). Moreover, "[p]arties cannot control an agency's docket or procedures through agreement among themselves." *Simmons v. United States*, 698 F.2d 888, 893 (7th Cir. 1983). Under the Commission Rules, the presiding officer has the authority to "regulate the course of the hearing" and to "fix the time for filing briefs, motions, and other documents to be filed in connection with hearings and the administrative law judge's decision thereon." 46 C.F.R. § 502.147(a). The authority of courts to control their dockets is well settled. *Link v. Wabash Railroad Co.*, 370 U.S. 626, 630-31 (1962); *United States v. Hughey*, 147 F.3d 423, 429 (5th Cir. 1998).

The parties' proposed findings of fact, replies to proposed findings of fact, appendices, and briefs shall be in the following forms:

1. **[Party's] Proposed Findings of Fact.** This document shall set forth proposed findings of fact in numbered paragraphs. Each paragraph shall be limited as nearly as practicable to a single factual proposition. Each factual proposition shall be followed by an exact citation to evidence that the party contends will support the proposed finding of fact; *e.g.*, a page number in the Appendix.¹ *See* 46 C.F.R. § 502.221. The party shall provide to each other party *and to the Office of Administrative Law Judges* an electronic copy of its Proposed Findings of Fact with the hard copy of its Proposed Findings of Fact. The electronic copy shall be in a word-processing format (*e.g.*, Microsoft Word or WordPerfect) and provided by disk, flash drive, or email.

2. **[Party's] Reply to [Party's] Proposed Findings of Fact.** This document shall set forth verbatim each proposed finding of fact in another party's Proposed Findings of Fact, then admit or deny the proposed finding. Each proposed finding of fact that an opposing party denies shall be followed by an exact citation to evidence that the opposing party contends will rebut the evidence the proposing party claims supports the proposed finding of fact. The opposing party shall provide to the party *and to the Office of Administrative Law Judges* an electronic copy of the Reply to [Party's] Proposed Findings of Fact with the hard copies of the Reply to [Party's] Proposed Findings of Fact. The electronic copy shall be in a word-processing format (*e.g.*, Microsoft Word or WordPerfect) and provided by disk, flash drive, or email.

3. **[Party's] Appendix.** The evidence on which a party's Proposed Findings of Fact or reply to another party's Proposed Findings of Fact is based shall be included in an Appendix.
 - a. The cover of the appendix shall identify the party or parties that prepared the appendix;

 - b. The pages of the appendix shall be numbered sequentially, for example CX 1, CX 2, CX 3 or RX 1, RX 2, RX 3, etc. The appendix should be secured in a three-ring binder;

 - c. The appendix must begin with a table of contents identifying the page at which each individual document begins;

 - d. Each party shall ensure that all documents in its appendix are in English and legible; and

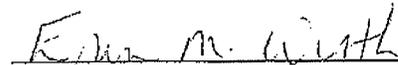
 - e. The parties are instructed to cite to a document in an appendix already in the record rather than include the same document in its own appendix. For instance, if Respondent contends that a document included in Complainants' appendix rebuts the evidence Complainant claims

¹ Parties must designate specific facts and provide the court with their location in the record. *Orr v. Bank of Am., NT & SA*, 285 F.3d 764, 775 (9th Cir. 2002). "General references [to evidence] without page or line numbers are not sufficiently specific." *S. Cal. Gas Co. v. City of Santa Ana*, 336 F.3d 885, 889 (9th Cir. 2003).

supports a proposed finding of fact, Respondent shall cite to Complainants' appendix rather than include a second copy of the same document in its own appendix.

4. **[Party's] Brief.** Each party shall file a brief meeting the requirements of Commission Rule 221, 46 C.F.R. § 502.221, with the exception that the proposed findings of fact required by section 502.221(d) shall be included in its Proposed Findings of Fact described above *and shall not count toward the page limit found in Rule 221(f)*.
5. **Service and Filing.** The parties are encouraged to serve and file hard copies of the documents required by this order by overnight delivery service.

The parties are directed to consult with each other to determine the most practicable way to send electronic copies of documents in a word-processing format to each other. The parties are directed to send the electronic copy in a word-processing format of required documents to the Office of Administrative Law Judges at the following email address: judges@fmc.gov.



Erin M. Wirth
Administrative Law Judge

Respondents' Opposition – Exh. D

FEDERAL MARITIME COMMISSION

DOCKET NO.: 15-04

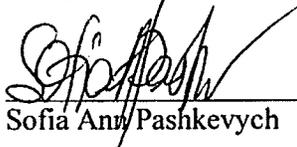
CROCUS INVESTMENTS, LLC AND CROCUS, FZE

v.

MARINE TRANSPORT LOGISTICS, INC. AND ALEKSANDR SOLOVYEV
a/k/a ROYAL FINANCE GROUP INC.

CERTIFICATE OF TRANSLATION

I, Sofia Ann Pashkevych, hereby certify that I translated the attached document from Russian into English and that, to the best of my ability, it is a true and correct translation. I further certify that I am competent in both Russian and English to render and certify such translation.


Sofia Ann Pashkevych

STATE OF FLORIDA
COUNTY OF ORANGE

Sworn to or affirmed and subscribed before me this 17 day of March, 2016, by Sofia Ann Pashkevych.



Alena Ortiz
Commission # FF083713
Expires: JAN. 15, 2018
www.AARONNOTARY.com


NOTARY PUBLIC or DEPUTY CLERK

Alena V. Ortiz
[Print, type, or stamp commissioned name of notary or clerk]

Personally known
 Produced identification
Type of identification produced FL ID P212-781-92-581-0