

(S E R V E D)
(OCTOBER 8, 2015)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 15-10

REVOCATION OF LICENSE NO. 017843

WASHINGTON MOVERS, INC.

ORDER TO SHOW CAUSE

Respondent Washington Movers, Inc. (Washington Movers) is a Virginia corporation qualified to do business as a foreign corporation in the State of Maryland.¹ The company has been licensed to operate as an ocean transportation intermediary (OTI) since April 2003. According to records maintained by the Commission's Bureau of Certification and Licensing (BCL), Washington Movers maintains its principal offices at 7913 Cryden Way, Forestville, MD 20147. BCL records identify the principal of the firm as Sam R. Ghanem (Ghanem), its sole owner, President, and Qualifying Individual (QI).

In 2014 the Commission became aware that Ghanem was arrested in December 2013 in a federal sting operation for attempting to export prohibited weapons to Lebanon through his company, Washington Movers. Following a federal indictment, jury trial, and subsequent retrial,

¹ According to the Virginia State Corporation Commission, Washington Movers, Inc. changed its name to Washington Movers International, Inc., effective Nov. 7, 2008. This change was later filed with the Department of Assessments and Taxation for the State of Maryland, in July 2013. However, the name change has not been filed with the Commission.

a federal jury convicted Ghanem on May 1, 2015, of attempting to export handguns, rifles, and gunsights, to Lebanon in violation of the Arms Export Control Act, 22 U.S.C. §2278, and of unlawfully smuggling goods from the United States in violation of 18 U.S.C. §554. Crim. Case No. RWT 14CR0008 (D. Md.), *United States v. Sam Rafic Ghanem*. On August 12, 2015, the Court sentenced Ghanem to 18 months incarceration, to be followed by 3 years of supervised release, and assessed a fine in excess of \$70,000. Defendant was ordered to surrender himself to commence his incarceration no later than September 28, 2015.

Section 19(a) of the Shipping Act, 46 U.S.C. §40901, prohibits any person in the United States from acting as an ocean transportation intermediary without a license issued by the Commission. The statute provides that the Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an OTI. Section 19(c) of the Shipping Act, 46 U.S.C. §40903 further provides that the Commission:

. . . after notice and opportunity for a hearing, shall suspend or revoke an ocean transportation intermediary's license if the Commission finds that the ocean transportation intermediary is not qualified to provide intermediary services . . .

The Commission's implementing regulations, 46 C.F.R. §515.16(a), provide, in pertinent part, that a license may be revoked or suspended for any of the following reasons:

(1) Violation of any provision of the Act, or any other statute or Commission order or regulation related to carrying on the business of an ocean transportation intermediary;

* * *

(4) Where the Commission determines that the licensee is not qualified to render intermediary services . . .

These regulatory provisions largely iterate the obligation imposed by the statute that each applicant for a license must initially be qualified by "experience and character" to act as an ocean

transportation intermediary, and must continuously maintain such qualifications of integrity, good character, technical OTI expertise and financial responsibility thereafter as a condition of license retention. See also 46 C.F.R. §§515.13 and 515.15 as to considerations in the review and investigation of OTI applications and the standards for denial of OTI licenses to applicants initially requesting same.²

The Commission has held that a felony conviction and participation in other unlawful schemes by an applicant's principal and proposed QI will have a decided and direct impact upon the question of character and fitness to render, or to retain a license to render, ocean transportation intermediary services. *Falcon Shipping Inc. and Abdiel Falcon - Application for License as an Ocean Transportation Intermediary*, 32 S.R.R. 382, 383-384 (FMC, 2012); *G.R. Minon – Freight Forwarder License*, 12 F.M.C. 75, 80-82 (FMC, 1968); and *Independent Ocean Freight Forwarder Application - Lesco Packing Inc.*, 19 F.M.C. 132 (FMC, 1976).

²As to considerations in the review and investigation of OTI applications and the standards for denial of OTI licenses to applicants, the Commission's licensing regulations currently provide:

§515.13 Investigation of applicants. The Commission shall conduct an investigation of the applicant's qualifications for a license. Such investigations may address:

- (a) The accuracy of the information submitted in the application;
- (b) The integrity and financial responsibility of the applicant;
- (c) The character of the applicant and its qualifying individual; and
- (d) The length and nature of the qualifying individual's experience in handling ocean transportation intermediary duties.

§515.15 Denial of license. If the Commission determines, as a result of its investigation, that the applicant:

- (a) Does not possess the necessary experience or character to render intermediary services;
- (b) Has failed to respond to any lawful inquiry of the Commission; or
- (c) Has made any materially false or misleading statement to the Commission in connection with its application;

then, a letter of intent to deny the application shall be sent to the applicant by certified U.S. mail or other method reasonably calculated to provide actual notice, stating the reason(s) why the Commission intends to deny the application.

The same character standard applies for license revocations. The sanction of revocation is appropriate when the Commission can no longer rely upon the honesty and integrity of the licensee, or of its principals, to the extent necessary to ensure future conduct within the confines of the statutes and regulations. *AAA Nordstar Line Inc. – Revocation of License No. 12234*, 29 S.R.R. 663 (FMC, 2002); and *Harry Kaufman d/b/a International Shippers Co. of N.Y.- Independent Ocean Freight Forwarder License No. 35*, 16 F.M.C. 264 (Examiner, 1972).

From pre-sentencing documents filed with the District Court, it appears that Ghanem used Washington Movers as his instrumentality to commit crimes involving unlawful smuggling of cargo and attempted export of firearms in foreign commerce. His felony convictions constitute violations of federal statutes related to carrying on the business of an OTI within the meaning of the Commission’s licensing regulations, and reflect directly upon the licensee’s continued fitness and character to conduct business as an OTI. Revocation is authorized on either ground. 46 C.F.R. §515.16(a)(1) and (4).

It further appears that Washington Movers failed to notify the Commission of its corporate name change as required by Commission regulations, 46 C.F.R. §515.18(a)(5), or the fact of Ghanem’s arrest, indictment and subsequent felony convictions, as required by 46 C.F.R. §515.12(d). Failure to notify the Commission of changes in this information is a violation of Commission regulations and constitutes additional grounds for revocation of an OTI license. 46 C.F.R. §515.16(a)(1).

NOW THEREFORE, IT IS ORDERED That, pursuant to sections 11 and 19 of the Shipping Act, 46 U.S.C. §§41302 and 40903, Washington Movers, Inc. is hereby directed to show cause no later than November 2, 2015, why its OTI license, FMC No. 017843, should not be

revoked inasmuch as the felony convictions of its owner, President and QI, acting through the OTI business of Washington Movers, together with failure to report material changes in fact and failure to obtain prior approval for a change in corporate name, renders such licensee no longer qualified to render ocean transportation intermediary services;

IT IS FURTHER ORDERED That, except as the Commission may order that an evidentiary hearing be conducted as provided by this Order or other regulation, this proceeding is limited to the submission of affidavits of fact and memoranda of law;

IT IS FURTHER ORDERED That, any person having an interest and desiring to intervene in this proceeding shall file a motion for leave to intervene in accordance with Rule 68 of the Commission's Rules of Practice and Procedure, 46 C.F.R. §502.68. Such motion shall be accompanied by the moving party's memorandum of law and affidavits of fact, if any, and shall be filed no later than November 2, 2015;

IT IS FURTHER ORDERED That, Washington Movers, Inc. be named as Respondent in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondent and any intervenors in support of Respondent no later than November 2, 2015;

IT IS FURTHER ORDERED That, the Commission's Bureau of Enforcement (BOE) be made a party to this proceeding;

IT IS FURTHER ORDERED That, reply affidavits and memoranda of law be filed by BOE and any intervenors in opposition to Respondent no later than November 17, 2015;

IT IS FURTHER ORDERED That:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in the proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit; and

(b) Any request for evidentiary hearing shall be filed no later than November 17, 2015;

IT IS FURTHER ORDERED That, notice of this Order to Show Cause be published in the *Federal Register*, and that a copy thereof be served upon Respondent at its last known address;

IT IS FURTHER ORDERED That, all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 2 of the Commission's Rules of Practice and Procedure, 46 C.F.R. §502.2, as well as being mailed directly to all parties of record;

FINALLY, IT IS ORDERED That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. §502.61, the final decision of the Commission in this proceeding shall be issued by April 6, 2016.

By the Commission.

Karen V. Gregory
Secretary