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April 13, 2016					
FEDERAL MARITIME COMMISSION					

FEDERAL MARITIME COMMISSION

DOCKET NO. 15-11

IGOR OVCHINNIKOV, IRINA RZAEVA, and DENIS NEKIPELOV

v.

**MICHAEL HITRINOV a/k/a MICHAEL KHITRINOV,
EMPIRE UNITED LINES CO., INC., and CARCONT, LTD.**

**ORDER GRANTING IN PART AND DENYING IN PART
MOTION FOR ADDITIONAL TIME IN WHICH TO RESPOND**

On March 30, 2016, the undersigned Administrative Law Judge issued a Notice of Default and Order to Show Cause requiring respondents Empire United Lines (Empire) and Michael Hitrinov a/k/a Michael Khitrinov (Hitrinov), on or before April 14, 2016, to file their answer or answers to the Verified Complaint and to show cause why an initial decision on default should not be entered against them on. *Igor Ovchinnikov, Irina Rzaeva, and Denis Nekipelov v. Michael Hitrinov a/k/a Michael Khitrinov, Empire United Lines Co., Inc., and CarCont, Ltd.*, FMC No. 15-11 (ALJ Mar. 30, 2016) (Notice of Default and Order to Show Cause).

On April 7, 2016, Empire and Hitrinov filed a motion seeking additional time in which to respond. They ask for a date “21 days after Respondents’ forthcoming motion to stay these proceedings pending determination of first-filed federal court litigation seeking damages for the same actions regarding the very same cars.” (Respondents’ Motion for Additional Time in Which to Respond at 1.) Respondents contend that previously filed litigation in the United States District Court for the District of New Jersey concerns the same cars that are the subject of this proceeding. “Litigating claims in two jurisdictions regarding the same cars is contrary to judicial or administrative economy and creates a real threat of inconsistent results and unconstitutional double injury.” (*Id.* at 2.) Respondents state that they plan to “file a motion to stay these proceedings pending resolution of the federal court claims, similar to the stay that was granted in Docket No. 15-08.” (*Id.*) Respondents do not further identify “Docket No. 15-08,” but the undersigned assumes they are referring to the stay issued in another Commission proceeding: *General Motors LLC v. Nippon Yusen Kabushiki Kaisa; Wallenius Wilhelmsen Logistics AS; and Eukor Car Carriers*

Inc., FMC No. 15-08 (ALJ Jan. 5, 2016) (Order Granting Joint Motion to Stay Proceedings). Respondents also state that recently hired counsel need time to prepare the motion to stay. (Respondents' Motion for Additional Time in Which to Respond at 2.) On April 13, 2016, Complainants filed an opposition to the motion for extension of time.

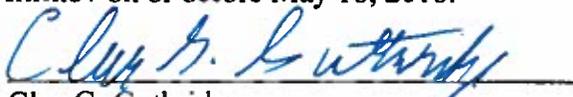
Empire and Hitrinov state that they have only recently retained counsel and that counsel need additional time to respond to the Notice of Default and Order to Show Cause. Therefore, it is appropriate to grant additional time, but not to the extent that Respondents request. Complainants filed the Complaint commencing this proceeding November 12, 2015. Information in the record indicates that Empire and Hitrinov have had notice of this proceeding since December 2015. *Igor Ovchinnikov, Irina Rzaeva, and Denis Nekipelov v. Michael Hitrinov a/k/a Michael Khitrinov, Empire United Lines Co., Inc., and CarCont, Ltd.*, FMC No. 15-11, Order at 2 (ALJ Mar. 30, 2016) (Notice of Default and Order to Show Cause). The Commission set an initial decision due date of November 17, 2016. *Igor Ovchinnikov, Irina Rzaeva, and Denis Nekipelov v. Michael Hitrinov a/k/a Michael Khitrinov, Empire United Lines Co., Inc., and CarCont, Ltd.*, FMC No. 15-11 (ALJ Nov. 18, 2015) (Notice of Filing of Complaint and Assignment). Therefore, it is appropriate to expedite this proceeding to the extent possible. The time to respond to the Notice of Default and Order to Show Cause is extended to May 2, 2016. Empire and Hitrinov's answer or answers will be due that date. Empire and Hitrinov are ordered to include any defenses that Rule 12(b) permits to be raised by motion in their answer or answers. They may also file a motion or motions addressing the 12(b) defenses with the answer or answers, but must file answers that date. Empire and Hitrinov's response to the order to show cause and the motion for stay that Empire and Hitrinov state they plan to file must also be filed on May 2, 2016.

O R D E R

Upon consideration of the foregoing and the record herein, it is hereby

ORDERED that Respondents motion for extension of time be **GRANTED IN PART** and **DENIED IN PART**. The time for respondents Empire and Hitrinov to file their answer or answers is extended to May 2, 2016. No further extensions will be granted. The answer or answers may be accompanied by motion or motions on grounds set forth in Federal Rule of Civil Procedure 12(b), but any defenses for which a Rule 12 motion may be filed must be set forth in the answer or answers. The time for respondents Empire and Hitrinov to respond to the order to show cause is extended to May 2, 2016. The motion to stay this proceeding that Empire and Hitrinov state that they intend to file must be filed on or before May 2, 2016. It is

FURTHER ORDERED that Complainants may file a reply to the response to the order to show cause and to any motion filed by Empire and Hitrinov on or before May 16, 2016.


Clay G. Guthridge
Administrative Law Judge