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October 17, 2016

Federal Maritime Commission
Office of the Secretary
800 North Capitol Street, N.W.
Washington, DC 20573-0001

RE: MAVL CAPITAL, INC., v. ALPER, et al.
Docket No. 16-16
Our File No. 400

Dear Sir/Madam:

Please forward this letter brief to the judge assigned to hear this matter. This office represents the respondent Dimitry Alper. By way of background, the Court on September 15, 2016 filed an Order to Show Cause why the complaint filed the complainants should not be partially dismissed. In particular, the Court's Order to Show Cause focused on the 2006 Mercedes SL65 and Three Harley Davidson Motorcycles including a 2004 Harley Davidson FXDXI, a 2007 Harley Davidson FXD, and a 2000 Harley Davidson XL883.

The complainants have submitted their opposition to the Order to Show Cause. Mr. Alper denies the facts set forth in the opposition, but even accepting such facts as true, does not give rise to jurisdiction under the Shipping Act.

The complainants cannot establish that the transactions involved a Shipping Act Violation. As set forth in Norfolk Southern Railway Co. v. Kirby, 543 U.S. 14

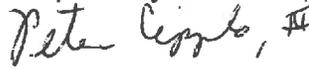
(2014), there must be some element of maritime commerce in order for maritime law to apply. *Id.* at 27. Further in Kawasaki Kisen Kaisha, Ltd v. Regal-Beloit Corp., 561 U.S. 89 (2010), maritime law applies even to land transportation along as part of the transportation involved maritime transportation. *Id.* at 93 and 110.

Regarding the 2006 Mercedes, the complainant does not contradict the Order to Show Cause which states that “MTL stole the Mercedes while it was stored in MTL’s warehouse, not while MTL was transporting it internationally by water” (See, Order to Show Cause dated September 15, 2016, p. 6). As highlighted in the actual complaint referring to the 2006 Mercedes, “the respondents unlawfully **converted** this vehicle and shipped it to the United Arab Emirates on or about August 23, 2013 (See complaint, p. 31, emphasis added). Despite the complainants’ protestations, nothing in their opposition changes this fact that MTL took control of the vehicle while it was located in its warehouse located in New Jersey. The fact that the title to the vehicle may have been issued in Dubai does not change the fact that the conversion of the vehicle occurred in MTL’s warehouse, thereby, abrogating any claim to a violation of the Shipping Act.

Regarding the three Harley Davidson motorcycles, the complainants’ opposition fails to address the essential crux to the Court’s Order to Show Cause which states that “Complainants do not allege that they hired or paid Respondents to ship Complainants’ motorcycles overseas or that Unitrans, a different NVOCC, was Respondents’ agent for transporting the motorcycles” (See page 7 of Order to Show Cause). Complainants’ opposition wildly asserts that defendant Alper improperly obtained title to one of the Harley Davidson motorcycles, however such claims, still do not establish that complainants hired the respondents pertaining to the transport of any of the three motorcycles or that that Unitrans was acting as the respondents’

agent. Without establishing this prerequisite, the complainants cannot establish a violation of the Shipping Act. Since the claims regarding 2006 Mercedes SL65 and Three Harley Davidson Motorcycles do not involve matters relating to the "transportation by water of ... cargo between the United States and a foreign country" under 46 U.S.C. § 40102(6) by a common carrier, this Commission lacks jurisdiction to hear over these allegations of the complaint.

Accordingly, it is respectfully requested the Court grant its Order to Show Cause to partially dismiss the complaint pertaining to the 2006 Mercedes SL65 and Three Harley Davidson Motorcycles.

Respectfully submitted,

PETER CIPPARULO, III

PC/pc

cc: Marcus A. Nussbaum, Esq., counsel for plaintiff
Eric Chang, Esq., counsel for defendant Marine Transport Logistics

BEFORE THE
FEDERAL MARITIME COMMISSION

MAVL CAPITAL, INC. and IAM & AL
GROUP, INC. and MAXIM
OSTROVSKIY,

Plaintiff,

vs.

MARINE TRANSPORT LOGISTICS,
INC. and DIMITRY ALPER,

Defendants.

Docket No. 16-16

Civil Action

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2016, I served a Letter Brief via email and
Regular mail to the following:

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DATED: October 17, 2016