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July 9, 2015					
FEDERAL MARITIME COMMISSION					

FEDERAL MARITIME COMMISSION

DOCKET NO. 1950(F)

SHEMITRANS, LLC

v.

ROSE CONTAINERLINE, INC.

NOTICE OF ASSIGNMENT AND ORDER OF DISMISSAL¹

On May 18, 2015, the Office of the Secretary docketed the Complaint filed by complainant ShemiTrans, LLC, as an informal complaint filed pursuant to 46 C.F.R. Subpart S and issued a Notice of Filing of Small Claims Complaint and Assignment assigning the proceeding to the Chief Administrative Law Judge for appointment of a Small Claims Officer. 46 C.F.R. § 502.301(b). *ShemiTrans, LLC v. Rose Containerline, Inc.*, FMC No. 1950(I) (FMC May 18, 2015). The notice required Respondent to file a response and to state whether it consents to the adjudication of this matter under the informal procedures set forth under Subpart S of the Commission's Rules of Practice and Procedure (46 C.F.R. §§ 502.301- 502.305).

On June 15, 2015, the Secretary received Respondent's Answer and Motion to Dismiss.² In that motion, Respondent states that it "does *not* consent to the application of the informal procedures outlined in Subpart S . . ." (Answer and Motion to Dismiss at 2 (emphasis in original).) Therefore, the claim will be adjudicated by a Commission Administrative Law Judge under procedures set forth in 46 C.F.R. Subpart T. 46 C.F.R. § 502.311. The Docket Number is changed to 1950(F). This

¹ This order will become the final decision of the Commission unless the Commission elects to review it within thirty days of service. Any party may file exceptions to this order within twenty-two days of the date of service. 46 C.F.R. § 502.318.

² I note that the Notice of Filing and Small Claims Assignment instructs the parties to submit filings to the Small Claims officer in the Office of Administrative Law Judges.

proceeding is assigned to the undersigned who will conduct such hearings and conferences as may be necessary to resolve the issues in this proceeding and to issue an Initial Decision or dispositive ruling.

On June 15, 2015, the Secretary also received an email from the Complainant stating that it would like to “pull our claim.” (Email dated June 15, 2015, from Complainant’s representative to the Office of the Secretary.) The undersigned sought clarification from Complainant. In response, Complainant stated:

We (ShemiTrans, LLC) are writing to inform you that we would like to withdraw our complaint against Rose Containerlines under Informal Docket No. 1950(I). Furthermore, we would like to inform you that we have not reached a settlement with them even though we would like to withdraw the complaint. We (ShemiTrans, LLC) appreciate the FMC’s time and consideration throughout this process. If you have any future questions or comments, please feel free to contact us through the information in the signature of this email.

(Email dated June 24, 2015, from Complainant’s representative to the Office of Administrative Law Judges.)

In a formal proceeding before the Commission, once a respondent files a motion to dismiss, a complainant may not voluntarily dismiss a complaint without an order from the presiding officer. *See* 46 C.F.R. § 502.72(a)(1) (“When no settlement agreement is involved, complainant may dismiss an action without an order from the presiding officer by filing a notice of dismissal before the opposing party serves . . . a motion to dismiss”); § 502.72(a)(2) (if there is no settlement, the parties may stipulate to dismissal); § 502.72(a)(3) (“an action may be dismissed at the complainant’s request . . . on terms the presiding officer considers proper”). Although Rules 69 through 71 governing motions and Rule 72 are not made applicable to Subpart T proceedings, *see* 46 C.F.R. § 502.321, the undersigned used these sections as a guide and asked counsel for Respondent whether Respondent had any objection to withdrawal of the Complaint. Counsel responded that Respondent did not object to withdrawal of the complaint. (Email dated June 25, 2015, from counsel for Respondent to Office of Administrative Law Judges).

In consideration of the foregoing, it is hereby

ORDERED that the Complaint be dismissed without prejudice.


Clay G. Guthridge
Chief Administrative Law Judge