

**ORIGINAL**

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July 27, 2009  
FEDERAL MARITIME COMMISSION

**FEDERAL MARITIME COMMISSION**

**WASHINGTON, D.C.**

**DOCKET NO. 07-09**

**JAMTECK INTERNATIONAL SHIPPING INC., AND  
ANGELLA BARNETT-WALKER - POSSIBLE VIOLATIONS OF THE  
COMMISSION'S REGULATIONS AT 46 C.F.R. PART 515**

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**INITIAL DECISION OF CLAY G. GUTHRIDGE, ADMINISTRATIVE LAW JUDGE<sup>1</sup>**

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By Order of Investigation and Hearing (Order) served August 24, 2007, the Commission commenced an investigation into the activities of respondents Jamteck International Shipping, Inc. (Jamteck), an ocean transportation intermediary (OTI) licensed by the Commission, and Angella Barnett-Walker, Jamteck's president and purportedly its Qualifying Individual,<sup>2</sup> for possible violations of the Commission's regulations applicable to OTIs. *Jamteck International Shipping, Inc., and Angella Barnett-Walker - Possible Violations of the Commission's Regulations at 46 C.F.R. Part 515*, FMC No. 07-09 (Aug. 24, 2007) (Order of Investigation and Hearing). The Order states that in response to questions on Jamteck's application for its OTI license, Respondents claimed Barnett-Walker worked in ocean transportation intermediary activities for two employers (Dennis Shipping and Gunter Shipping) over a period of four years. *Id.* at 1. When representatives of Dennis Shipping and Gunter Shipping contradicted Barnett-Walker's claim, the Commission's Office of Transportation Intermediaries sought documents that would confirm Barnett-Walker's employment at Dennis Shipping and Gunter Shipping from Barnett-Walker. Respondents did not produce the documents.

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<sup>1</sup> The initial decision will become the decision of the Commission in the absence of review by the Commission. Rule 227, Rules of Practice and Procedure, 46 C.F.R. § 502.227.

<sup>2</sup> "To be eligible for an ocean transportation intermediary license, the applicant must demonstrate to the Commission that: (1) It possesses the necessary experience, that is, its qualifying individual has a minimum of three (3) years experience in ocean transportation intermediary activities in the United States, and the necessary character to render ocean transportation intermediary services." 46 C.F.R. § 515.11(a).

The outcome of this proceeding turns on whether Barnett-Walker worked or did not work for Dennis Shipping and Gunter Shipping as Respondents claimed on Jamteck's application for an OTI license. The evidence in the record supports a finding that she did not work for the OTIs.

## BACKGROUND

The Commission issued the Order because:

It has come to the attention of the Commission that Ms. Barnett-Walker appears to have misrepresented her OTI experience on Jamteck's license application. Information provided by representatives of both employers indicates that Ms. Barnett-Walker does not have three (3) years of OTI experience as required by the Commission's regulations at 46 CFR 515.11(a). In addition to a lack of the requisite OTI experience of three (3) years, it appears that, in applying for its OTI license, Jamteck and Ms. Barnett-Walker made materially false or misleading statements to the Commission with regard to Ms. Barnett-Walker's previous OTI experience and subsequently failed to correct such omissions.

*Id.* at 2. The Order notes that section 19 of the Shipping Act of 1984 requires any person in the United States acting as an OTI to hold a license issued by the Commission. 46 U.S.C. § 40901(a). Commission regulations require that an applicant for a license demonstrate three years experience in OTI activities. *See* n.2, *supra*.

The Act 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 – (1) is not qualified to provide intermediary services; or (2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.

46 U.S.C. § 40903(a). The Commission's regulations provide that an OTI's license:

may be revoked or suspended after notice and an opportunity for a hearing 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;
- (2) Failure to respond to any lawful order or inquiry by the Commission;
- (3) Making a materially false or misleading statement to the Commission in connection with an application for a license or an amendment to an existing license;

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

(5) Failure to honor the licensee's financial obligations to the Commission.

46 C.F.R. § 515.16(a).

The Commission ordered the investigation to determine:

- 1) whether Jamteck International Shipping, Inc., and Angella Barnett-Walker violated the Commission's regulations at 46 CFR Part 515 by submitting materially false or misleading information to the Commission on the OTI license application of Jamteck International Shipping, Inc., and whether such licensee is qualified to render licensed OTI services;
- 2) whether the Ocean Transportation Intermediary license, No. 020155N, of Jamteck International Shipping, Inc., should be suspended or revoked pursuant to section 19 of the 1984 Act; and
- 3) whether, in the event violations are found, appropriate cease and desist orders should be issued against Jamteck International Shipping, Inc., and Angella Barnett-Walker.

*Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09, Order at 3-4 (Aug. 24, 2007) (Order of Investigation and Hearing) (served August 24, 2007).<sup>3</sup>

I may take official notice of Commission records pursuant to 46 C.F.R. § 502.226. These records establish that Federal Express delivered separate copies of the Order to Barnett-Walker and Jamteck at Jamteck's address of record, 4633 Richardson Ave., Bronx, NY 10410. See Federal Express records, FMC Docket No. 07-09, Correspondence Section. Despite their knowledge of the proceeding, Barnett-Walker and Jamteck have chosen not to participate. See *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Nov. 6, 2008) (Memorandum and Order on the Motion of the Bureau of Enforcement to Compel Discovery from Respondents); *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Mar. 19, 2009) (Memorandum and Order on the Bureau of Enforcement Motion for Sanctions and Summary Judgment).

BOE served discovery on Respondents seeking, *inter alia*, copies of Barnett-Walker's personal federal and state tax returns for each year from 2000 through 2007, copies of Barnett-

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<sup>3</sup> BOE states that "on April 2, 2008, the Commission issued an Order revoking the OTI license, No. 020155N, of Jamteck pursuant to section 19(c) of the 1984 Act by reason of Jamteck's failure to maintain valid proof of financial responsibility." (Opening Brief of Bureau of Enforcement at 2-3.) Therefore, this issue is moot. The question of whether a cease and desist order should be issued is not moot.

Walker's Forms W-2 and Forms 1099 for each year from 2000 through 2007, and all of Barnett-Walkers's contracts of employment. (BOE Interrogatories and Requests for Production of Documents Directed to Jamteck International Shipping Inc. and Angella Barnett-Walker, requests for production of documents 8, 9, and 11.) If Barnett-Walker worked for Dennis Shipping and Gunter Shipping as Respondents claimed, the information sought by the requests would confirm that.

When Respondents failed to respond to BOE's discovery, BOE sought and was granted an order compelling responses. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Nov. 6, 2008) (Memorandum and Order on the Motion of the Bureau of Enforcement to Compel Discovery from Respondents). Respondents did not reply to the Order, and BOE sought imposition of sanctions for failing to respond to discovery and moved for summary judgment. I denied the motion for summary judgment and deferred ruling on the motion for sanctions. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09, Memorandum at 8 (ALJ Mar. 19, 2009) (Memorandum and Order on the Bureau of Enforcement Motion for Sanctions and Summary Judgment).

On April 17, 2009, BOE filed its proposed findings of fact, appendix, and opening brief as required by the procedural order issued March 19, 2009, *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Mar. 19, 2009) (March 19, 2009, Procedural Order), as amended on March 24, 2009. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Mar. 24, 2009) (Order Extending Filing Dates Established by March 19, 2009, Procedural Order). Respondents were required to file Respondents' Reply to BOE's Proposed Findings of Fact, Respondents' Proposed Findings of Fact, Respondents' Appendix, and Respondents' Brief required by Part II of the March 19, 2009, Procedural Order on or before May 1, 2009. As of today, Respondents have not filed these documents.

In a separate Order issued today, I granted BOE's motion for discovery sanctions pursuant to Commission Rule 210 and ordered that an inference adverse to Respondents be drawn from Respondents' failure to respond to discovery. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ July 27, 2009) (Memorandum and Order on the Bureau of Enforcement Motion for Sanctions) ("Because Respondents failed to comply with the order requiring them to respond to requests for production of documents seeking Barnett-Walker's financial records in the form of personal federal and state tax returns for each year from 2000 through 2007, Forms W-2 and Forms 1099 for each year from 2000 through 2007, and contracts of employment, I draw the inference that Barnett-Walker's financial records would not support Respondents' claim that Barnett-Walker worked for Dennis Shipping and Gunter Shipping as stated on the application for ocean transportation intermediary license filed by respondent Jamteck International Shipping, Inc. ").

## DISCUSSION

To prevail in a proceeding brought to enforce the Shipping Act, BOE has the burden of proving by a preponderance of the evidence that the respondent violated the Act. 5 U.S.C. § 556(d); 46 C.F.R. § 502.155; *Sea-Land Service Inc. - Possible Violations of Sections 10(b)(1), 10(b)(4) and*

19(d) of the Shipping Act of 1984, 30 S.R.R. 872, 889 (2006); *Exclusive Tug Franchises - Marine Terminal Operators Serving the Lower Mississippi River*, 29 S.R.R. 718, 718-719 (ALJ 2001). “[A]s of 1946 the ordinary meaning of burden of proof was burden of persuasion, and we understand the APA’s unadorned reference to ‘burden of proof’ to refer to the burden of persuasion.” *Director, Office of Workers’ Compensation Programs v. Greenwich Collieries*, 512 U.S. 267, 276 (1994). The party with the burden of persuasion must prove its case by a preponderance of the evidence. *Steadman v. SEC*, 450 U.S. 91, 102 (1981). “[W]hen the evidence is evenly balanced, the [party with the burden of persuasion] must lose.” *Greenwich Collieries*, 512 U.S. at 281.

There is no conflict in the evidence regarding most of the facts relevant to this proceeding. There is conflicting evidence in the record whether Barnett-Walker worked for the two OTIs as Respondents claimed and thus had the necessary experience to be a qualifying individual as defined by Commission regulations. *See supra* at 1 n.1. I considered all of the documents contained in BOE’s Appendix in resolving this issue.

An applicant for a license to be an OTI must complete Form FMC-18. Form FMC-18 requires the applicant to set forth its qualifying individual’s experience. In Jamteck’s application, Barnett-Walker claimed that she had five years of qualifying ocean transportation intermediary experience. Barnett-Walker stated that she worked for Dennis Shipping Co., Inc. from 2000 to 2003 where she performed the following duties: “Make booking, prepare bills of lading, prepare shipment of cargo for Caribbean Island, prepare daily income report to be verified against bills of lading received for the day.” (BOE App. 7.)<sup>4</sup> Barnett-Walker also stated that she worked for Gunter Shipping from 2003 to 2004 where she performed the following duties: “Prepare bills of lading, make bookings, prepare shipment of cargo for Caribbean Island. Prepare daily income report to be verified against bills of lading received for the day.” (BOE App. 9.) Barnett-Walker signed the certification on the application stating “[u]nder penalty of perjury, I declare that I have examined this application and to the best of my knowledge and belief, it is true, correct and complete.” (BOE App. 15.) This sworn Form FMC-18 is relevant and admissible evidence that Barnett-Walker worked for Gunter Shipping and Dennis Shipping.

On December 13, 2006, Ralph W. Freibert (Freibert) of the Commission’s Office of Transportation Intermediaries wrote to Barnett-Walker requesting copies of her employment records at Gunter Shipping and Dennis Shipping. (BOE App. 1; BOE App. 16.) Barnett-Walker did not provide the records. (BOE App. 2.) Freibert then contacted Dennis Shipping and Gunter Shipping. Their representatives stated that Barnett-Walker had not worked at either company. (BOE App. 2.) Freibert sent a second letter to Barnett-Walker stating what he had learned from Dennis Shipping and Gunter Shipping and asking her again to send records of her employment with those entities. (BOE App. 2; BOE App. 19.) Barnett-Walker responded by an unsworn letter stating that the employment information in Jamteck’s application is “consistent and factual,” but she did not include any employment records. (BOE App. 2; BOE App. 21.)

Other than the Jamteck application and Barnett-Walker’s unsworn letter in response to Freibert’s second letter, no evidence in the record supports Barnett-Walker’s claim that she worked

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<sup>4</sup> “BOE App.” followed by a number refers to a page number in BOE’s Appendix.

for Dennis Shipping and Gunter Shipping. BOE submitted as part of its Appendix a verified statement from Joseph A. Gunter, president of Gunter Shipping, stating that “Gunter Shipping, Inc. did not employ Angela [*sic*] Barnett-Walker as a salaried employee . . . during the period 2003 and 2004.” (BOE App. 24.) BOE also included an unsworn email dated March 08, 2007, from Kenesia Stewart identifying Stewart as the Executive Administrator for Dennis Shipping and stating “[t]his serves to inform you that Angela [*sic*] Barnett Walker does not and has never worked with Dennis Shipping Co. I have checked our payroll records and employee files and her name [does] not come up.” (BOE App. 18.)

The Commission and this judge gave Respondents several opportunities to provide documents supporting their claim that Barnett-Walker worked for Dennis Shipping and Gunter Shipping. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Nov. 6, 2008) (Memorandum and Order on the Motion of the Bureau of Enforcement to Compel Discovery from Respondents). *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Feb. 26, 2009) (February 26, 2009 Procedural Order). *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Mar. 19, 2009) (Memorandum and Order on the Bureau of Enforcement Motion for Sanctions and Summary Judgment). They did not provide the documents.

Because Respondents failed to comply with the order requiring them to respond to requests for production of documents seeking Barnett-Walker’s financial records in the form of personal federal and state tax returns for each year from 2000 through 2007, Forms W-2 and Forms 1099 for each year from 2000 through 2007, and contracts of employment, I draw the inference that Barnett-Walker’s financial records would not support Respondents’ claim that Angella Barnett-Walker worked for Dennis Shipping and Gunter Shipping as stated on the application for ocean transportation intermediary license filed by respondent Jamteck International Shipping, Inc. 46 C.F.R. § 502.210(a).

*Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ July 27, 2009) (Memorandum and Order on the Bureau of Enforcement Motion for Sanctions).

I find that Respondents’ claim that Barnett-Walker worked for Dennis Shipping and Gunter Shipping is not credible and that BOE has proven by a preponderance of the evidence that Barnett-Walker did not work for Dennis Shipping and Gunter Shipping. Therefore, Jamteck International Shipping, Inc., and Angella Barnett-Walker violated the Commission’s regulations at 46 C.F.R. Part 515 by submitting materially false or misleading information to the Commission on the OTI license application of Jamteck International Shipping, Inc. Jamteck International Shipping, Inc., and Angella Barnett-Walker are not qualified to render licensed OTI services.

The Order of Investigation in this proceeding directed that it be determined whether a cease and desist order should be issued. “[T]he general rule is that [cease and desist] orders are appropriate when there is a reasonable likelihood that respondents will resume their unlawful activities.” *Portman Square Ltd. – Possible Violations of Section 10(a)(1) of the Shipping Act of 1984*, 28 S.R.R. 80, 86 (ALJ 1998), admin. final Mar. 16, 1998, citing *Alex Parsinia d/b/a Pacific Int’l Shipping and Cargo Express*, 27 S.R.R. 1335, 1342 (ALJ 1997), admin. final, December 4,

1997. "A cease and desist order must be tailored to the needs and facts of the particular case." *Marcella Shipping Co. Ltd.*, 23 S.R.R. 857, 871-872 (ALJ 1986), admin. final, Mar. 26, 1986.

Jamteck obtained its OTI license based on a misrepresentation of the work experience of its purported qualified individual. As of April 17, 2009, Jamteck was listed by the New York Department of State as an active domestic business corporation. (Opening Brief of Bureau of Enforcement, Attachment A.) Because of Jamteck's status as an active corporation and Respondents' previous misrepresentations to the Commission, I find that there is a reasonable likelihood that Jamteck International Shipping, Inc., and Angella Barnett-Walker will resume their unlawful activities; therefore, an order is entered against Jamteck International Shipping, Inc., and Angella Barnett-Walker directing them to cease and desist from operating as ocean transportation intermediaries in the United States foreign trades without publishing tariffs, obtaining licenses, and providing evidence of financial responsibility.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW<sup>5</sup>

The evidence in the record supports the following findings of fact and conclusions of law.

1. On March 27, 2006, respondent Jamteck International Shipping, Inc., (Jamteck) submitted an Application for a License as an Ocean Transportation Intermediary, Form FMC-18. (BOE App. 3.)
2. Jamteck stated that its mailing address is 4633 Richardson Ave., Bronx, NY 10410 U.S.A. (BOE App. 3.)
3. Jamteck represented that it was incorporated in New York on June 25, 2005. (BOE App. 4.)
4. As of April 17, 2009, Jamteck was listed by the New York Department of State as an active domestic business corporation. (Opening Brief of Bureau of Enforcement, Attachment A.)
5. Jamteck applied for a license to operate as both an ocean freight forwarder and a non-vessel-operating common carrier. (BOE App. 3.)
6. Jamteck identified respondent Angella<sup>6</sup> Barnett Walker (Barnett-Walker) as its president. (BOE App. 7.)

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<sup>5</sup> To the extent certain findings of fact may be deemed conclusions of law, they shall also be considered conclusions of law. Similarly, to the extent matters contained in the conclusions of law may be deemed findings of fact, they shall also be considered findings of fact.

<sup>6</sup> This name is spelled "Angela" on this page of Jamteck's Form FMC-18, but "Angella" on page BOE App. 13 and BOE App. 15. Since the printed name and the signature on BOE App. 15 have two "Ls", I assume "Angella" is the correct spelling.

7. Barnett-Walker signed the certification on the application stating “[u]nder penalty of perjury, I declare that I have examined this application and to the best of my knowledge and belief, it is true, correct and complete.” (BOE App. 15.)
8. Jamteck proposed respondent Barnett-Walker as its Initial Qualifying Individual. (BOE App. 7.)
9. Jamteck represented that Barnett-Walker had 5 years of qualifying ocean transportation intermediary experience. (BOE App. 7.)
10. Jamteck represented that Barnett-Walker worked for Dennis Shipping Co., Inc., from 2000 to 2003. (BOE App. 7.)
11. Jamteck represented the Barnett-Walker performed the following duties for Dennis Shipping: “Make booking, prepare bills of lading, prepare shipment of cargo for Caribbean Island, prepare daily income report to be verified against bills of lading received for the day.” (BOE App. 7.)
12. Jamteck represented that Barnett-Walker worked for Gunter Shipping from 2003 to 2004. (BOE App. 9.)
13. Jamteck represented the Barnett-Walker performed the following duties for Gunter Shipping: “Prepare bills of lading, make bookings, prepare shipment of cargo for Caribbean Island. Prepare daily income report to be verified against bills of lading received for the day.” (BOE App. 9.)
14. Based on the representations in the Application for a License as an Ocean Transportation Intermediary, on February 26, 2007, the Commission licensed Jamteck as an ocean transportation intermediary, FMC License No. 020155N. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09, Order at 1 (Aug. 24, 2007) (Order of Investigation and Hearing).
15. On February 28, 2008, Ralph W. Freibert (Freibert) was the Director of the Office of Transportation Intermediaries in the Commission’s Bureau of Certification and Licensing (BCL) when he signed a Verified Statement setting forth BCL’s attempts to verify Barnett-Walker’s employment experience. (BOE App. 1-2.)
16. In an effort to verify Barnett-Walker’s employment information, on December 13, 2006, Freibert issued a letter requesting that Barnett-Walker furnish copies of her employment records from Dennis Shipping and Gunter Shipping. (BOE App. 1; BOE App. 16.)
17. Barnett-Walker did not submit the records requested by Freibert’s letter of December 13, 2006. (BOE App. 2.)
18. On March 5, 2007, Freibert contacted Mr. Joseph A. Gunter, President of Gunter Shipping to attempt to verify Barnett-Walker’s employment with Gunter Shipping. (BOE App. 2.)

19. Gunter stated that he had no records to demonstrate salaried employment of Barnett-Walker for the time period in which Barnett-Walker stated she worked for Gunter Shipping. (BOE App. 2.)
20. On March 5, 2007, Freibert contacted Ms. Kenesia Stewart, Executive Administrator of Dennis Shipping, to attempt to verify Barnett-Walker's employment with Dennis Shipping. (BOE App. 2.)
21. Stewart responded by email that based on her review of payroll and employee records, Barnett-Walker was never employed by Dennis Shipping. (BOE App. 2; BOE App. 18.)
22. By letter dated June 7, 2007, BCL notified Barnett-Walker that based on the information received from Gunter Shipping and Dennis Shipping, it appeared that Jamteck and Barnett-Walker had misrepresented Barnett-Walker's qualifications by falsifying her work experience on Jamteck's Form FMC-18. (BOE App. 2; BOE App. 19.)
23. BCL's June 7, 2007, letter reminded Barnett-Walker of her failure to respond to BCL's letter of December 13, 2007, asking her for her employment records. (BOE App. 2; BOE App. 19.)
24. By letter dated June 12, 2007, not signed under oath, Barnett-Walker responded that the employment information set forth in Jamteck's Form FMC-18 is "consistent and factual." (BOE App. 2; BOE App. 21.)
25. Barnett-Walker did not submit any records of her employment with Gunter Shipping or Dennis Shipping with her letter of June 12, 2007. (BOE App. 2.)
26. By letter dated July 23, 2007, BCL advised Barnett-Walker of its intention to recommend to the Commission that a proceeding be commenced seeking the revocation of Jamteck's OTI license based on BCL's receipt of employment information adverse to the representations made by Barnett-Walker regarding her work experience with Gunter Shipping and Dennis Shipping. (BOE App. 2; BOE App. 22.)
27. On August 13, 2007, Joseph A. Gunter, president of Gunter Shipping, signed a verified statement under oath that Angela [*sic*] Barnett-Walker did not work for Gunter Shipping in 2003 and 2004. (BOE App. 24.)
28. On August 24, 2007, the Commission served the Order of Investigation and Hearing commencing this proceeding. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (Aug. 24, 2007) (Order of Investigation and Hearing).
29. On August 27, 2007, Federal Express delivered the Order of Investigation and Hearing to Jamteck International Shipping, Inc., at 4633 Richardson Ave., Bronx, NY 10410. FMC Docket No. 07-09, Correspondence Section.

30. On August 27, 2007, Federal Express delivered the Order of Investigation and Hearing to Angella Barnett-Walker, at 4633 Richardson Ave., Bronx, NY 10410. FMC Docket No. 07-09, Correspondence Section.
31. The Commission has personal jurisdiction over Jamteck and Barnett-Walker.
32. BOE served discovery on Jamteck and Barnett-Walker seeking copies of records of Barnett-Walker's claimed employment with Gunter Shipping and Dennis Shipping. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Nov. 6, 2008) (Memorandum and Order on the Motion of the Bureau of Enforcement to Compel Discovery from Respondents).
33. Jamteck and Barnett-Walker did not respond to BOE's discovery. *Id.*
34. On November 6, 2008, I entered an order compelling respondents Jamteck International Shipping, Inc., and Angella Barnett-Walker to respond to the Bureau of Enforcement Interrogatories and Requests for Production of Documents Directed to Jamteck International Shipping, Inc., and Angella Barnett-Walker on or before November 21, 2008. *Id.*
35. On February 26, 2009, I entered an Order requiring the parties to file a joint status report stating the following:
  - (1) Whether Respondents have responded to BOE's discovery; (2) Setting forth a proposed schedule that will result in filing, on or before May 27, 2009, of all statements, evidence, and argument necessary for an initial decision. If BOE is unable to secure the cooperation of Respondents in preparing the joint status report, BOE shall advise me of that fact and file an individual status report with a proposed schedule on or before March 18, 2009. Respondents are advised that failure to respond to discovery and failure to file prehearing statements may result in the imposition of sanctions. 46 C.F.R. § 502.95(c); 46 C.F.R. § 502.210. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ Feb. 26, 2009) (February 26, 2009 Procedural Order).
36. On March 5, 2009, BOE filed a motion stating the Respondents had not responded to discovery and seeking imposition of sanctions on Respondents for their failure to respond to discovery as ordered. *Jamteck International Shipping, Inc. – Possible Violations*, FMC No. 07-09 (ALJ July 27, 2009) (Memorandum and Order on the Bureau of Enforcement Motion for Sanctions).
37. "Because Respondents failed to comply with the order requiring them to respond to requests for production of documents seeking Barnett-Walker's financial records in the form of personal federal and state tax returns for each year from 2000 through 2007, Forms W-2 and Forms 1099 for each year from 2000 through 2007, and contracts of employment, I draw the inference that Barnett-Walker's financial records would not support Respondents' claim that Angella Barnett-Walker worked for Dennis Shipping and Gunter Shipping as stated on the

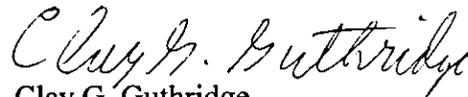
application for ocean transportation intermediary license filed by respondent Jamteck International Shipping, Inc. 46 C.F.R. § 502.210(a)." *Id.*

38. BOE has proven by a preponderance of the evidence that Barnett-Walker did not work for Gunter Shipping as claimed on Jamteck's Form FMC-18.
39. BOE has proven by a preponderance of the evidence that Barnett-Walker did not work for Dennis Shipping as claimed on Jamteck's Form FMC-18.
40. BOE has proven by a preponderance of the evidence that Jamteck International Shipping, Inc., and Angella Barnett-Walker violated the Commission's regulations at 46 C.F.R. Part 515 by submitting materially false or misleading information to the Commission on the OTI license application of Jamteck International Shipping, Inc,
41. Jamteck International Shipping, Inc., and Angella Barnett-Walker are not qualified to render licensed OTI services.
42. The Commission issued Ocean Transportation Intermediary License No. 020155N because of misrepresentations in Jamteck's Application for a License as an Jamteck License.
43. Because of Jamteck's status as an active corporation and Respondents' previous misrepresentations to the Commission, I find that there is a reasonable likelihood that Jamteck International Shipping, Inc., and Angella Barnett-Walker will resume their unlawful activities; therefore, a cease and desist order should be issued against Jamteck International Shipping, Inc., and Angella Barnett-Walker.

### CEASE AND DESIST ORDER

Upon consideration of the foregoing evidence, the finding that Jamteck International Shipping, Inc., and Angella Barnett-Walker violated the Commission's regulations at 46 C.F.R. Part 515 by submitting materially false or misleading information to the Commission on the OTI license application of Jamteck International Shipping, Inc., and the finding that there is a reasonable likelihood that respondents will resume their unlawful activities, it is hereby

**ORDERED** that respondents Jamteck International Shipping, Inc., and Angella Barnett-Walker cease and desist from operating as ocean transportation intermediaries in the United States foreign trades without publishing tariffs, obtaining licenses, and providing evidence of financial responsibility.

  
Clay G. Guthridge  
Administrative Law Judge