

FEDERAL MARITIME COMMISSION

RITCO INTERNATIONAL, INC.

v.

AIR 7 SEAS TRANSPORT AND
LOGISTICS

&

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LOGISTICS

v.

SHIPPING CORPORATION OF INDIA,
LTD. (S.C.I. LINE)

Docket No. 06-07

Served: March 22, 2007

BY THE COMMISSION: A. Paul ANDERSON, Joseph E.
BRENNAN, Harold J. CREEL, Jr., and Rebecca F. DYE,
Commissioners

Order Granting Parties Request to Dismiss this Proceeding with Prejudice

This matter is before the Federal Maritime Commission upon the request of Ritco International, Inc. ("Ritco" or "Complainant"), Air 7 Seas Transport and Logistics ("Air 7" or

“Respondent”) and Shipping Corp. of India. Ltd. (“S.C.I. Line” or “Third-Party Respondent”) that this proceeding be dismissed with prejudice. Exception at 1-6. In effect, this request asks the Commission to modify the administrative law judge (“ALJ”) ruling dismissing this proceeding without prejudice.

BACKGROUND

Ritco filed a complaint alleging that Air 7 violated section 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. 41102(c)(2006), by delivering containers to an incorrect destination. Complaint at 1. Ritco asserted that this caused it to incur demurrage and detention charges. *Id.* Air 7 denied liability for these charges and filed a third-party complaint, which it describes as a cross-complaint, against S.C.I. Line, the carrier that allegedly took the containers to the incorrect destination. Respondent Answer at 1-4, Respondent Cross-Complaint at 1. S.C.I. Line contends that it is not liable for any damages in this proceeding. Third-Party-Respondent Answer at 2-3.

During a scheduling conference on November 21, 2006, the ALJ ordered each party in this proceeding to have counsel or to file a statement explaining the authority of its representative to appear before the Commission pursuant to Rule 22 of the Commission’s Rules of Practice and Procedure¹ on or before November 30, 2006. While Air 7 and S.C.I. Line had attorneys during this conference, Ritco did not and failed to comply with the order as directed. As a result, the ALJ dismissed this proceeding without prejudice on January 17, 2007. Order Dismissing Complaint at 3.

¹46 C.F.R. § 502.22 (2006) reads: “any individual acting in representative capacity in any proceeding before the Commission may be required to show his or her authority to act in such capacity.”

Subsequent to this Order, the parties negotiated a settlement. The parties then filed a letter requesting that the Commission dismiss this proceeding with prejudice. This letter included attachments indicating an agreement among the parties provided that the complaint is dismissed with prejudice. Exceptions at 1-6.

DISCUSSION

The parties amicably resolved their dispute after the ALJ dismissed this proceeding without prejudice. The Commission, the Federal Rules of Civil Procedure and the Administrative Procedure Act encourage settlement agreements as long as they are consistent with law and policy, free of fraud, duress, undue influence, mistake and other defects. Fed. R. Civ. P. 16 ; Administrative Procedure Act 5 U.S.C. § 554(c)(1) (2000); 46 C.F.R. § 502.603(a) (2006); Old Ben Coal Co. v. Sea-Land Service, 18 S.R.R. 1085, 1092-93 (1978).

Here there is no indication that any of the parties to the settlement were coerced, unduly influenced or otherwise induced to sign the agreement by fraud, duress or mistake as indicated in their exception. Exceptions at 1-6. Nor does it appear that their settlement agreement violates any law or policy.

CONCLUSION

Given its broad authority and encouragement of dismissals and settlements, the Commission grants the parties' request to dismiss this proceeding with prejudice.

THEREFORE, IT IS ORDERED, That this proceeding is dismissed with prejudice.

By the Commission.

A handwritten signature in black ink, appearing to read 'Bryant L. VanBrakle', written in a cursive style.

Bryant L. VanBrakle
Secretary