

ORIGINAL

(S E R V E D)
(JANUARY 31, 2006)
(FEDERAL MARITIME COMMISSION)

**FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.**

DOCKET NO. 06-03

PREMIER AUTOMOTIVE SERVICES, INC.

v.

ROBERT L. FLANAGAN AND F. BROOKS ROYSTER, III

NOTICE OF FILING OF COMPLAINT AND ASSIGNMENT

Notice is given that a complaint has been filed with the Federal Maritime Commission ("Commission") by Premier Automotive Services, Inc., ("Complainant"), against Robert L. Flanagan and F. Brooks Royster, III, ("Respondents"). Complainant asserts that it is a Baltimore based import/export vehicle processing center that operates as a marine terminal operator under The Shipping Act of 1984 ("the Act"). Complainant contends that Respondent Robert L. Flanagan is the Secretary of the Department of Transportation of the State of Maryland and the Chairman of the Maryland Port Commission, and Respondent F. Brooks Royster, III, is the Executive Director of the Maryland Port Administration. Complainant asserts that it has been a tenant of the Maryland Port Authority ("MPA") since 1992, renewing the lease once in 1998 and then leasing month-to-month since 2002. The Complainant further contends the MPA has demanded that Complainant vacate the premises after refusing to negotiate a commercially reasonable lease. Complainant alleges

that the MPA and its Directors have violated Section 10(d)(1) of the Act (46 U.S.C. App. §1709(d)(1)) by failing to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property. In addition, Complainant alleges that Respondents violated Sections 10(d)(3) of the Act (46 USA App. §1709(d)(3)) by unreasonably refusing to deal with a tenant, and 10(d)(4) of the Act (46 USC App. 1709(d)(4)) by giving undue or unreasonable preference or advantage or imposing undue or unreasonable prejudice or disadvantage with respect to any person. Respondent asserts that the Commission has found that it might have jurisdiction to adjudicate a “. . . privately-initiated complaint proceeding against the directors of a state-run port rather than against the port.” Respondent prays that the Commission: seek a temporary restraining order and preliminary injunction enjoining the Respondents to cease their unlawful treatment of Complainant and from leasing the lot to another company; declare that the Respondents have violated the Act as detailed above and direct the Respondents to cease all such violations; direct Respondents to offer Complainant a commercially viable lease for the lot in question; award Complainant reparations for actual injuries, pre and post-judgment interest, and litigation and attorney fees; and award such other and further relief as deemed just and proper.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 C.F.R. 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the

nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 C.F.R. 502.61, the initial decision of the presiding officer in this proceeding shall be issued by January 31, 2007, and the final decision of the Commission shall be issued by May 31, 2007.



Bryant L. VanBrakle
Secretary