

ORIGINAL

(S E R V E D)
(JUNE 21, 2005)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 05-03

AMERICAN WAREHOUSING OF NEW YORK, INC.

v.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

NOTICE OF FILING OF COMPLAINT AND ASSIGNMENT

Notice is given that a complaint has been filed by American Warehousing of New York, Inc. (“Complainant”) against The Port Authority of New York and New Jersey (“Respondent”). Complainant contends that Respondent has violated, and continues to violate Sections 10(d)(1), 10(d)(3) 10(d)(4), 10(b)(10) and 10(b)(13) of the Act, 46 U.S.C. App. § 1709(d)(1), 1709(d)(3), 1709(b)(4), 1709(b)(10) and 1709(b)(13), respectively. Specifically, the Complainant alleges that the Respondent has not provided any material or reasonable justification for its actions (i) in hampering operations at American Warehousing, (ii) delaying and/or denying berths to ships at American Warehousing, (iii) in its campaign to convince American Warehousing clients to take their business elsewhere, and (iv) its attempts to double the rent at Pier 7, and (v) engaging in various discriminatory, retaliatory or irrational behavior. As a direct result of these allegations, Complainant claims that Respondent’s actions have given American Warehousing’s competitors in other terminals

and geographic locations an unfair advantage in that they are able to conduct business in the New York-New Jersey area more efficiently because the Respondent is not harassing them or their clients. Complainant seeks an order directing Respondent to cease all actions to terminate Complainant's leasehold relationship with Respondent; cease all actions designed to harass, intimidate and delay the operations of the Complainant; establish and put in force such practices as the Commission determines to be lawful and reasonable; provide other relief the Commission may determine to be proper as reward or reparation; and take any other action the Commission determines to be appropriate.

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 June 21, 2006 and the final decision of the Commission shall be issued by October 19, 2006.


Bryant L. VanBrakle
Secretary