

§ 502.605

46 CFR Ch. IV (10-1-06 Edition)

offer of compromise submitted by the respondent pursuant to this section shall be deemed to have been furnished by the respondent without prejudice and shall not be used against the respondent in any proceeding.

(g) *Delegation of compromise authority.* The compromise authority set forth in this subpart is delegated to the Director, Bureau of Enforcement. [Rule 604.]

[49 FR 44418, Nov. 6, 1984. Redesignated at 58 FR 27211, May 7, 1993, as amended at 61 FR 51233, Oct. 1, 1996; 64 FR 7812, 7813, Feb. 17, 1999]

§ 502.605 Payment of penalty: Method; default.

(a) *Method.* Payment of penalties by the respondent is to be made by bank cashier's check or other instrument acceptable to the Commission.

(b) All checks or other instruments submitted in payment of claims shall be made payable to the Federal Maritime Commission.

(c) *Default in payment.* Where a respondent fails or refuses to pay a penalty properly assessed under § 502.603, or compromised and agreed to under § 502.604, appropriate collection efforts will be made by the Commission, including, but not limited to referral to the Department of Justice for collection. Where such defaulting respondent is a licensed freight forwarder, such default also may be grounds for revocation or suspension of the respondent's license, after notice and opportunity for hearing, unless such notice and hearing have been waived by the respondent in writing. [Rule 605.]

[49 FR 44418, Nov. 6, 1984. Redesignated at 58 FR 27211, May 7, 1993, as amended at 64 FR 7813, Feb. 17, 1999]

APPENDIX A TO SUBPART W OF PART 502—EXAMPLE OF COMPROMISE AGREEMENT TO BE USED UNDER 46 CFR 502.604

Compromise Agreement

FMC File No. _____

This Agreement is entered into between: (1) the Federal Maritime Commission, hereinafter referred to as Commission, and (2) _____, hereinafter referred to as Respondent.

Whereas, the Commission is considering the institution of an assessment proceeding against Respondent for the recovery of civil

penalties provided under the [appropriate statute], for alleged violations of section _____;

Whereas, this course of action is the result of practices believed by the Commission to have been engaged in by Respondent, to wit:

[General description of practices and dates or time period involved]

Whereas, the Commission has authority under the Shipping Act of 1984 to compromise and collect civil penalties; and,

Whereas, Respondent has terminated the practices which are the basis for the allegations of violation set forth herein, and has instituted and indicated its willingness to maintain measures designed to eliminate these practices by Respondent, its officers, directors or employees.

Now Therefore, in consideration of the premises herein, and in compromise of all civil penalties arising from the alleged violations, Respondent and the Commission hereby agree upon the following terms and conditions of compromise and settlement:

1. Respondent shall make a monetary payment to the Commission herewith, by bank cashier's check, in the total amount of \$ _____.

2. Upon acceptance in writing of this Agreement by the Director of the Bureau of Enforcement of the Commission, this instrument shall forever bar the commencement or institution of any assessment proceeding or other claim for recovery of civil penalties from the Respondent arising from the alleged violations set forth above.

3. It is expressly understood and agreed that this Agreement is not, and is not to be construed as, an admission by Respondent to the alleged violations set forth above.

(Respondent's Name)

By: _____
Title: _____
Date: _____

Approval and Acceptance

The above terms, conditions and consideration are hereby approved and accepted:

By the Federal Maritime Commission:
Director, Bureau of Enforcement

Date: _____

[49 FR 44418, Nov. 6, 1984. Redesignated at 58 FR 27211, May 7, 1993, as amended at 61 FR 51233, Oct. 1, 1996; 65 FR 81759, Dec. 27, 2000]