

(S E R V E D)  
( November 26, 2008 )  
(FEDERAL MARITIME COMMISSION)

**FEDERAL MARITIME COMMISSION**

---

**DOCKET NO. 08-06**

---

**WESTERN HOLDING GROUP, INC., MARINE EXPRESS, INC. AND  
CORPORACIÓN FERRIES DEL CARIBE, INC.**

**v.**

**MAYAGÜEZ PORT COMMISSION AND  
HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.**

---

**Notice of Filing of Complaint and Assignment**

---

Notice is given that a complaint has been filed with the Federal Maritime Commission ("Commission") by Western Holding Group, Inc. ("Western Holding"), Marine Express, Inc. ("Marine Express") and Corporación Ferries Del Caribe, Inc. ("Ferries del Caribe"), hereinafter "Complainants". Complainants assert that they are for-profit corporations organized and existing pursuant to the laws of the Commonwealth of Puerto Rico. Complainants allege that Respondent Mayagüez Port Commission ("Port Commission") is a public corporation and that Respondent Holland Group Port Investment (Mayagüez), Inc. ("Holland Group") is a for-profit corporation. Complainants further allege that both Respondent corporations are organized and existing pursuant to the laws of the Commonwealth of Puerto Rico.

Complainants assert that Complainant Western Holding owns and charters the vessel *M/V Caribbean Express*. Complainants aver that Marine Express and Ferries del Caribe transport passengers, goods and vehicles between the Dominican Republic and Puerto Rico on said vessel. Complainants Ferries del Caribe and Marine Express maintain that they are common carriers within the meaning of the Shipping Act of 1984, as amended ("The Shipping Act"). See 46 U.S.C. § 40102(6).

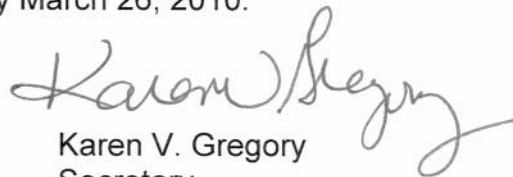
Complainants assert that Respondent Mayagüez Port Commission is responsible for all port business within the Port of Mayagüez, and that Respondent Holland Group administers and operates the Mayagüez port facilities. Complainants contend that Respondents Mayagüez Port Commission and Holland Group are marine terminal operators within the meaning of The Shipping Act. See 46 U.S.C. § 40102(14).

Complainants allege that ownership of the Port of Mayagüez was transferred to Respondent Port Commission in July, 2004, with a requirement to honor the terms of Complainant Marine Express' existing lease, and that this requirement was not honored. Complainants contend that Respondents' actions, including aforesaid action, constitute violations of The Shipping Act including unjust, unreasonable and unlawful practices in violation of Section 41102(c), and unreasonable refusals to negotiate, unreasonable discrimination and undue or unreasonable prejudice and disadvantages in violation of Sections 41106(1)-(3). 46 U.S.C. §§ 41102(c), 41106(1)-(3).

Complainants request that the Commission order Respondents to: (1) cease and desist from the violations of The Shipping Act described in this Complaint; (2) establish and put in force such practices as the Commission determines lawful and reasonable; (3) pay to the Complainants reparations of \$25,000,000.00 including attorney's fees, interests and costs; and (4) take any other action or provide any other relief as the

Commission determines to be warranted under the circumstances.

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 November 26, 2009, and the final decision of the Commission shall be issued by March 26, 2010.

  
Karen V. Gregory  
Secretary