

BEFORE THE
FEDERAL MARITIME COMMISSION

OJ COMMERCE, LLC,)	
)	
Complainant,)	
)	
v.)	
)	
HAMBURG SÜDAMERIKANISCHE)	DOCKET NO. 21-11
DAMPFSCHIFFFAHRTS-GESELLSCHAFT A/S)	
& CO. KG)	
)	
and)	
)	
HAMBURG SUD NORTH AMERICA, INC.)	
)	
Respondents.)	
)	

**RESPONDENTS’ REVISED MOTION FOR
CONFIDENTIAL TREATMENT OF CERTAIN MATERIALS**

Pursuant to 46 C.F.R. §§502.141(j)(1) and 502.5(b), respondents Hamburg Südamerikanische Dampfschiffahrts-Gesellschaft A/S & Co. KG (“HSDG”) and Hamburg Sud North America, Inc. (“HSNA” and, together with HSDG, “Respondents”) hereby revise their motion for confidential treatment of certain materials included with or referred to in Respondents’ Appendix.

On April 26, 2022, the Presiding Officer issued an Order Entering Confidentiality Stipulation and Proposed Protective Order, which Order was amended by the June 22, 2022 Order Entering Amended Confidentiality Stipulation and Protective Order (“Confidentiality Order”). The Confidentiality Order provides for the confidential treatment of certain materials produced in discovery in this proceeding (“Confidential Information”). The Confidentiality Order contemplates the use of Confidential Information in connection with briefing on the merits and

requires that Confidential Information disclosed to the Commission and the Administrative Law Judge in papers, including exhibits, shall be labeled in accordance with 46 CFR §502.5 and that “(t)he ALJ shall order an appropriate procedure for the use of the Confidential Information at or during the course of the Proceeding pursuant to 46 CFR §502.141(j)(1).”

On December 8, 2022, Respondents moved for the treatment of certain material as confidential in conjunction with the filing of Respondents’ Brief, Proposed Findings of Fact, Response to Complainant OJ Commerce’s Proposed Findings of Fact, and Appendix.

On February 24, 2023, the Presiding Officer ordered the Parties to supplement their motions for confidential treatment to include increased specificity with regard to deposition testimony that they request be treated confidentially.

Respondents hereby modify their request for confidential treatment as follows:

Complainant’s Appendix

- Andrea Casanova, CX205-208, Transcript pages 173-176 and 205-212: Remove confidential designations.
- Michael Gast, CX295-296, Transcript pages 129-132: Remove confidential designations *except for Page 132, Lines 16-25*.
- Kevin Li, CX409-412, Transcript pages 125-128; 133-136; and 141-144: Remove confidential designations.
- Juergen Pump, CX88-100 and SCX488-490: Remove confidential designations *except for CX094, Transcript page 164, Lines 12-25*.

Respondent’s Appendix

- Andrea Casanova: RX942-973, Transcript pages 85-120, 129-132, 169-188, and 197-228: Remove confidential designations except:
 - *RX952, Transcript page:130, Lines 4-9*
 - *RX957, Transcript page: 187, Line: 16 – Page: 188, Line: 25*
- Michael Gast: RX974-976, Transcript pages: 9-12: Remove confidential designations.

- Juergen Pump: RX983-995, Transcript pages 125-136, 149-156, 161-164, 169-176, 225-236, and 245-252: Remove confidential designations *except for RX988A, Transcript page: 164, Lines: 12-25.*

Complainant OJ Commerce produced several witnesses. Two of those witnesses, Jacob Weiss and Mr. Berning, OJ Commerce's expert, testified regarding non-public financial, marketing, and business activities of Complainant. Complainant has since re-designated a portion of these transcripts as confidential. Respondents do not object to such treatment.

Pursuant to Rule 502.5(b), Respondents have filed with this motion modified Confidential-Restricted and public versions of their Appendix. Although, confidential information is referenced throughout the Appendix, making designation of individual pages burdensome, Respondents have updated deposition transcripts in the Appendix to reflect line-by-line redactions as ordered.

Documents in the Appendix which were produced in discovery and designated as Confidential or AEO at the time of production bear the designation assigned at the time of production. Other documents and deposition transcripts included in Respondents' Appendix that contain material designated as Confidential, AEO, or both have been labelled as "Confidential" in the Appendix.

For the foregoing reasons, Respondents request that the material so designated in Respondents' Appendix be kept confidential.

Respectfully submitted,

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March 14, 2023

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of March, 2023, the foregoing Motion was served via email on:

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