

FEDERAL MARITIME COMMISSION

DOCKET NO: 22-15

PRO TRANSPORT CHARLESTON, INC.

Petitioner,

vs.

ALLROUND MIDWEST FORWARDING, INC.,

Respondent.



COMPLAINT

1. Petitioner, PRO TRANSPORT CHARLESTON, INC. (herein “Pro Transport” or “Petitioner”) is a Florida corporation with its principal place of business located at 10800 N.W. South River Drive, Miami, Miami-Dade County, Florida 33178. Plaintiff is a motor carrier that provides transportation and transportation services, primarily to and from commercial ports along the southeastern seaboard of the United States.

2. Pro Transport is a motor carrier licensed by the United States Department of Transport, Federal Motor Carrier Safety Administration (Motor Carrier No. MC-621650).

3. Respondent, ALLROUND MIDWEST FORWARDING, INC. (herein “Allround” or “Respondent”), is a Delaware corporation with its principal place of business located at 6751 Engle Road, Suite B, Cleveland, Cuyahoga County, Ohio 44130.

4. Allround is an **ocean transportation intermediary** (“OTI”) as defined by 46 U.S.C. § 40102(20):

(20) Ocean transportation intermediary .— The term “ocean transportation intermediary” means an **ocean freight forwarder** or a non-vessel-operating common carrier. (emphasis added).

See also, 46 C.F.R. § 515.2.

5. Allround holds itself out as an ocean freight forwarder licensed by the Federal Maritime Commission (FMC). Allround is registered with the FMC as “Organization No. 025993” and “License No. 025993”.

6. As an FMC licensed ocean freight forwarder, Allround is required under federal law and regulations to maintain at all times “an appropriate surety bond”, pursuant to 46 U.S.C. § 40902 (*See e.g.* <https://www.fmc.gov/about-the-fmc/bureaus-offices/oti-bonds/>, 46 C.F.R. § 515.21 *et seq*; *see also*, 49 C.F.R. § 387.403).

7. The Federal Maritime Commission has jurisdiction over this action pursuant to 46 U.S.C.A. § 40903, which provides:

(a) Failure To Maintain Qualifications or To Comply.—The Federal Maritime Commission, after notice and opportunity for a hearing, shall suspend or revoke an ocean transportation intermediary’s license if the Commission finds that the ocean transportation intermediary—

- (1) is not qualified to provide intermediary services; or
- (2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.

(b) Failure To Maintain Bond, Proof of Insurance, or Other Surety.—The Commission may revoke an ocean transportation intermediary’s license for failure to maintain a bond, proof of insurance, or other surety as required by section 40902(a) of this title.

See also, 46. C.F.R. 515.26 *et seq*.

8. At the time of the filing of this action, the FMC and the Federal Motor Carrier Safety Administration (FMCSA) have no record of Allround's compliance with the requirement to maintain a surety bond at all times material.

9. The purpose of the required surety bond required of freight forwarders, whether under the FMC or the FMCSA, is to ensure that a motor carrier that transacts business with such a freight forwarder is guaranteed payment for its services.

10. Allround solicited, as an FMC licensed ocean freight forwarder, Pro Transport to transport cargo on behalf of Allround and Allround's customer(s). Pro Transport provided transportation services to Allround but has not been fully compensated by Allround. Allround is indebted to Pro Transport in the amount of \$21,689.20, not including court costs and attorney's fees.

11. Pro Transport has been forced to file suit against Allround to collect this debt, as reflected in **Exhibit 1** hereto, which is the Complaint filed in Miami-Dade County, Florida. The suit was filed in Miami-Dade County pursuant to a contract signed by Allround, in which it submitted to jurisdiction in Miami-Dade County, Florida, and also agreed to pay Pro Transport for all costs and fees incurred in the collection on the account.

12. Prior to the filing of this state court action, Pro Transport inquired of Allround whether it had a surety bond. The president of Allround, Mr. Janko Wille, replied as follows:

Mr Shelley

If Allround Forwarding Midwest had an FMCSA bond I'm sure you would have found the information already.

We are neither a property broker, nor a domestic freight forwarder and we do not buy trucks with the intend to make profit.

Therefore an FMCSA bond is not required.

In reply, counsel for Pro Transport stated:

Mr. Wille –

Please review the attached.

According to the Federal Maritime Commission, your company is a licensed freight forwarder. Consequently, and notwithstanding your opinion (highlighted below), your company is required to maintain a surety bond.

Mr. Wille, as president of Allround, then replied:

Mr Shelley

Our bind (sic) company has been informed. Please provide a copy of your claim once available to you

And in reply to that, Pro Transport stated:

Mr. Wille –

I assume you meant “bond” company, not “bind” company, is that correct?

So now your company has a surety bond? You told me previously, and repeatedly, that there was no bond. Yet, you still have provided no evidence of a bond, as requested below.

The thread of emails containing these exchanges is attached as **Exhibit 2** hereto.

These exchanges are evidence of Allround's bad faith in dealing with Pro Transport and clear failure to adhere to the FMC's requirements to maintain the required bond.

13. Possible additional evidence of Allround's deceit and bad faith can be found by analyzing the email address for Mr. Wille, the president of Allround: janko.wille@afm-logistics.com. "AFM Logistics" is registered with the FMCSA as a motor carrier under the name "AFM Logistics, LLC" with USDOT number 336835, with a business address also in Cleveland, Ohio. That entity does maintain a surety bond according to a recent review of the FMCSA online public records.

14. Also, Allround appears to be related to another company, known as "Allround Forwarding, Inc." which is licensed by FMC as an ocean freight forwarder (Organization No. 023457 and License No. 001216). The basis for this statement is that the logo for Allround Forwarding, Inc. is identical to the Delivery Order presented by Allround (Midwest Forwarding, Inc.) to Pro Transport, as reflected by the documents in Composite **Exhibit 3**.

15. The incongruous email address for the president of Allround, which indicates at the very minimum a relationship with another company, and the shared logo with yet another company (which has almost the identical name), are facts relevant to this matter because it appears that Allround was set up as a shell company to avoid financial responsibility. Other evidence of bad faith and actionable misconduct by Allround may become known through discovery in this matter.

16. The FMC is authorized to penalize Allround for its bad faith in dealing with Pro Transport and for its failure to maintain a surety bond as required. 46 U.S.C. § 41107 provides:

(a) In General.—

A person that violates this part or a regulation or order of the Federal Maritime Commission issued under this part is liable to the United States Government for a civil penalty. Unless otherwise provided in this part, the amount of the penalty may not exceed \$5,000 for each violation or, if the violation was willfully and knowingly committed, \$25,000 for each violation. Each day of a continuing violation is a separate violation.

See also, 46 C.F.R. § 515.16 et seq.

17. Pro Transport has been injured by Allround's deception regarding the required bond and by its failure to fully pay for the transportation services provided.

18. Pro Transport requests that any hearings be held in Miami, Florida or via Zoom.

WHEREFORE Pro Transport prays that Allround be required:

A. To answer the charges herein, and that after due hearing, an order be made commanding said Respondent to pay to said Petitioner by way of reparations for the unlawful conduct an amount the Commission may determine to be proper as an award, including but not limited to the amount claimed by Pro Transport in the state court action, including interest and attorney's fees and costs;

B. To rescind Respondent's freight forward license;

C. To further penalize Respondent as provided by federal law and regulations;

and,

D. To enter such other and further order or orders by made as the Commission determines to be proper in the premises.

DATED this 26th day of May, 2022.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May, 2022, a true and correct copy of the foregoing pleading was served via email to:

Janke Wille, President
Allround Midwest Forwarding, Inc.
6751 Engle Road, Suite B,
Cleveland, Ohio 44130
janko.wille@afm-logistics.com

/s/

MICHAEL SHELLEY