

the "except clause" of section 10(c)(6). The Commission in *MSC* indicated that it is not the FMC's role to decide on the validity of a MarAd order. *MSC*, 27 S.R.R. at 888. However, the Commission's inquiry in *MSC* included the threshold conclusion that MarAd action under the 1916 Act was a necessary prerequisite for the existence of the agreements at issue: the U.S.-flag vessels could not be chartered to the foreign carrier agreement parties without MarAd approval. 27 S.R.R. at 876. No party contended otherwise. Here, no similar nexus between the Agreement and the statutory authority of the Maritime Administrator invoked by APL is evident.<sup>16</sup> Thus, inasmuch as the FMC's determination must be based on the statutory provisions relied on, and the terms of MSP operating agreements or other forms of action by MarAd, we would find it particularly helpful to have MarAd participate as *amicus curiae* in the Commission's proceeding and will order the Secretary to invite that participation.

Now therefore, it is ordered That pursuant to section 11 of the Shipping Act of 1984, American President Lines, Ltd., Mitsui O.S.K. Line, Ltd., Orient Overseas Container Line, Inc. and Hyundai Merchant Marine, Ltd. show cause why they should not be found to have violated section 10(c)(6) of the Shipping Act of 1984 by prohibiting specific carriers that are parties to the agreement from soliciting cargo from a particular shipper or shippers;

It is further ordered that American President Lines, Ltd., Mitsui O.S.K. Line, Ltd., Orient Overseas Container Line, Inc. and Hyundai Merchant Marine, Ltd. show cause why an order should not be issued disapproving, canceling or modifying the APL/MOL/OOCL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203-011588;

It is further ordered That this proceeding is limited to the submission of affidavits of facts and memoranda of law;

It is further ordered That the Secretary by letter inquire whether the Maritime Administration, Department of Transportation wishes to participate *amicus curiae* in this proceeding. The Commission would welcome such participation;

<sup>16</sup> In initiating this proceeding, we do not undertake to review the actions of the Maritime Administrator under his statutory authority. Our administration of the 1984 Act, however, requires that we determine whether an agreement filed pursuant to the 1984 Act requires action by the Administrator under a statute which authorizes him to command carrier obedience to orders cognizable as "law of the United States," and whether the Administrator has required the action specifically taken by the parties in this instance.

It is further ordered That any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed no later than the day fixed below;

It is further ordered That American President Lines, Ltd., Mitsui O.S.K. Line, Ltd., Orient Overseas Container Line, Inc. and Hyundai Merchant Marine, Ltd. are named Respondents in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondents and any intervenors in support of Respondents no later than December 2, 1997;

It is further ordered That the Commission's Bureau of Enforcement be made a party to this proceeding;

It is further ordered That reply affidavits and memoranda of law shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondent no later than January 2, 1998;

It is further ordered That rebuttal affidavits and memoranda of law shall be filed by Respondents and intervenors in support no later than January 20, 1998;

It is further ordered That, should any party believe that an oral argument is required, that party must submit a request specifying the reasons therefore and why argument by memorandum is inadequate to present the party's case. Any request for oral argument shall be filed no later than January 20, 1998;

It is further ordered That notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served upon Respondents;

It is further ordered That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.118, as well as being mailed directly to all parties of record;

Finally, it is ordered That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.61, the final decision of the Commission in this proceeding shall be issued by April 20, 1998.

By the Commission.  
**Joseph C. Polking**,  
Secretary.  
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## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-27510) published on pages 54113-54114 of the issue for Friday, October 17, 1997.

Under the Federal Reserve Bank of San Francisco heading, the entry for Wendell A. Jacobson, Fountain Green, Utah, is revised to read as follows:

**A. Federal Reserve Bank of San Francisco** (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *Wendell A., and Melba B. Jacobson*, Fountain Green, Utah; to acquire additional voting shares of Bank of Ephraim, Ephraim, Utah.

Comments on this application must be received by October 30, 1997.

Board of Governors of the Federal Reserve System, October 17, 1997.

**Jennifer J. Johnson**,

*Deputy Secretary of the Board.*

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## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.