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SERVICE DATE – LATE RELEASE FEBRUARY 23, 2010

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 693

ORAL ARGUMENT

Decided: February 23, 2010

The Surface Transportation Board will hold oral argument on Wednesday, March 24, 2010, at 9:30 a.m., in the Board's hearing room at the Board's headquarters located at 395 E Street, S.W., Washington, DC. The argument will address STB Finance Docket No. 35290, West Point Relocation, Inc. and Eli Cohen—Petition for Declaratory Order. The oral argument will be open for public observation, but only counsel for the parties will be permitted to present argument.

In STB Finance Docket No. 35290, West Point Relocation, Inc. (West Point), and Eli Cohen (collectively, petitioners) seek a declaratory order as to whether it is an unreasonable practice, under 49 U.S.C. 13701, for Horizon Lines LLC (Horizon) to issue tariff rules that hold officers and directors of corporations personally liable for shipping charges incurred by the corporation. This matter was referred by the United States District Court for the Central District of California, on August 4, 2009, in Horizon Lines LLC v. West Point Relocation, No. CV 08-6362 RSWL (JTLx). Horizon initiated the court proceeding to collect from petitioners unpaid charges accrued between 2007 and 2008, allegedly due under a tariff for the shipment of goods between mainland points and Hawaii. The court stayed the collection case against Mr. Cohen, granting Mr. Cohen's motion to refer to the Board the issue of whether the terms of the tariff were reasonable. Horizon filed a reply in opposition, and petitioners filed a rebuttal statement. The Board will hear argument on the petition for declaratory order.

Petitioners will have a total of 20 minutes of argument time and the opposition (Horizon) will have a total of 20 minutes of argument time. Petitioners will open and may reserve part of their time for rebuttal if they so choose. Board members may ask questions during the parties' allotted time.

By March 17, 2010, the parties should submit to the Board the name of the counsel who will be presenting argument, the party counsel will be representing, and the requested time reserved for rebuttal if the party is the petitioner. Absent a request from the Board, no additional written comments may be filed in connection with this oral argument. Each party is encouraged to use its oral argument time to call attention to the points it believes are particularly important. The arguments will be in the style of an appellate court. Parties should prepare a short statement of their argument and be prepared to answer questions from the Board. The purpose of oral argument is not to restate the written arguments previously made, but to summarize and

emphasize the key points of a party's case, and provide an opportunity for questions that the Board may have regarding any issue in the proceeding.

Counsel for the parties should check in with Board staff in the hearing room prior to the argument.

A video broadcast of the oral argument will be available via the Board's website at <http://www.stb.dot.gov>, under "Information Center"/"Webcast"/"Live Video" on the home page.

#### Instructions for Attendance at Hearing

The STB requests that all persons attending the hearing use the Patriots Plaza Building's main entrance at 395 E Street, S.W. (closest to the northeast corner of the intersection of 4th and E Streets). There will be no reserved seating, except for those scheduled to present oral arguments. The building will be open to the public at 7:00 a.m., and participants are encouraged to arrive early. There is no public parking in the building.

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government identification); sign-in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; then pass through a metal detector. Persons choosing to exit the building during the course of the hearing must surrender their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes likewise will be collected from those exiting the hearing upon its conclusion.

Laptops and recorders may be used in the hearing room, but no provision will be made for connecting personal computers to the Internet. Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor surrounding the hearing room, or in the building's main lobby.

The Board's hearing room complies with the Americans With Disabilities Act, and persons needing such accommodations should call (202) 245-0245, by the close of business on March 16, 2010.

For further information regarding the oral arguments, contact Amy Ziehm at (202) 245-0391. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Oral argument in this proceeding will be held on Wednesday, March 24, 2010, at 9:30 a.m., in the Surface Transportation Board Hearing Room, at 395 E Street, S.W., Washington, DC, as described above.
2. By March 17, 2010, the parties shall submit to the Board the name of the counsel who will be presenting argument, the party counsel will be representing, and the requested time reserved for rebuttal if the party is the petitioner.
3. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.