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237302

ENTERED December 22, 2014
Office of Proceedings
December 22, 2014

VIA E-FILING
Surface Transportation Board Part of
395 E Street, SW Public Record
Washington DC 20423

Re: U S Rail Corporation-Brookhaven Rail Terminal, STB F.D. No. 35141

Dear Surface Transportation Board:

We are special counsel for the Town of Brookhaven. We write to advise the Board that on December 15, 2014, the Town filed an emergency application with the U.S. District Court in the pending lawsuit, seeking an order to show cause to enforce the 2010 Stipulation of Settlement between the Town and the Brookhaven Rail Terminal and remaining defendants ("BRT"), by preventing the handling, storage or transportation of "used oil" at the Terminal. The District Court directed BRT to promptly respond to the request. On December 17, 2014, BRT filed a letter with the Court contesting the merits of the application, but stating (emphasis by BRT): **"BRT agrees that it will promptly cease all further importing, exporting, transloading, handling, storing, or otherwise processing used oil at the terminal until a mutually-satisfactory global settlement agreement can be reached with the Town"**.

On December 18, 2014, Magistrate Judge Gary R. Brown issued an Electronic Order on the Docket (copy enclosed), stating:

ELECTRONIC ORDER re [73][74]: Based upon counsel for BRT defendants' representation that BRT agrees that it will promptly cease all further importing, exporting, transloading, handling, storing or otherwise processing used oil at the terminal until a mutually satisfactory global settlement agreement can be reached with the Town, the Court will take no further action unless contacted by the parties. Ordered by Magistrate Judge Gary R. Brown on 12/18/2014

We appreciate the Board's consideration.

Respectfully,
ROSENBERG CALICA & BIRNEY LLP

By: *Robert M. Calica, MEB*

Robert M. Calica

Encl.

**U.S. District Court
Eastern District of New York (Central Islip)
CIVIL DOCKET FOR CASE #: 2:14-cv-02286-GRB**

Town of Brookhaven v. Sills Road Realty LLC et al
Assigned to: Magistrate Judge Gary R. Brown
Case in other court: NYS Supreme Court, Suffolk County, 061613-
2014
Cause: 28:1331 Fed. Question: Breach of Contract

Date Filed: 04/09/2014
Jury Demand: Plaintiff
Nature of Suit: 190 Contract: Other
Jurisdiction: Federal Question

Date Filed	#	Docket Text
12/18/2014		ELECTRONIC ORDER re 73 74 : Based upon counsel for BRT defendants' representation that BRT agrees that it will promptly cease all further importing, exporting, transloading, handling, storing or otherwise processing used oil at the terminal until a mutually satisfactory global settlement agreement can be reached with the Town, the Court will take no further action unless contacted by the parties. Ordered by Magistrate Judge Gary R. Brown on 12/18/2014. c/ecf (Johnston, Linda) (Entered: 12/18/2014)
12/18/2014	75	Letter to Magistrate Judge Brown in response to defendants' 12/17/14 letter by Town of Brookhaven (Serfaty, Judah) (Entered: 12/18/2014)
12/17/2014	74	Letter to Judge Brown by Brookhaven Rail LLC, Brookhaven Terminal Operations LLC, Oakland Transportation Holdings LLC, Pratt Brothers, Inc., Sills Road Realty LLC, Watral Brothers, Inc. (Aronoff, Yonaton) (Entered: 12/17/2014)
12/16/2014		ELECTRONIC ORDER re 73 : Defendants shall respond to plaintiff's motion by December 17, 2014. The parties are directed to provide courtesy copies of all motion and response papers to the undersigned. Ordered by Magistrate Judge Gary R. Brown on 12/16/2014. c/ecf (Johnston, Linda) (Entered: 12/16/2014)
12/15/2014	73	MOTION for Order to Show Cause <i>Cover Letter to Magistrate Judge Brown</i> by Town of Brookhaven. (Attachments: # 1 Proposed Order to Show Cause, # 2 Eaderesto Declaration, # 3 Davis Declaration, # 4 Exhibit A-D, # 5 Exhibit E-J, # 6 Memorandum in Support) (Serfaty, Judah) (Entered: 12/15/2014)
08/07/2014	72	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on 6/25/2014, before Magistrate Judge Gary R. Brown. Transcriber Tracy Gribben Transcription LLC, Telephone number 732- 263-0044. Email address: Tracy@tgribbentranscription.com. Transcript may be viewed at the court public terminal or purchased through the Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 8/28/2014. Redacted Transcript Deadline set for 9/8/2014. Release of Transcript Restriction set for 11/5/2014. (Cox, Dwayne) (Entered: 08/07/2014)
08/07/2014	71	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on 6/9/2014, before Magistrate Judge Gary R. Brown. Transcriber Tracy Gribben Transcription LLC, Telephone number 732- 263-0044. Email address: Tracy@tgribbentranscription.com. Transcript may be viewed at the court public terminal or purchased through the Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 8/28/2014. Redacted Transcript Deadline set for 9/8/2014. Release of Transcript Restriction set for 11/5/2014. (Cox, Dwayne) (Entered: 08/07/2014)
07/15/2014	70	

CERTIFICATE OF SERVICE

I, JUDAH SERFATY, hereby certify that on the 13th day of November, 2014, I caused to be served the within **LETTER OF DECEMBER 22, 2014, WITH ATTACHMENT** upon the attorneys/parties by E-mailing same to their email addresses:

TO: Vanessa L. Miller, Esq.
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Dated: December 22, 2014



JUDAH SERFATY