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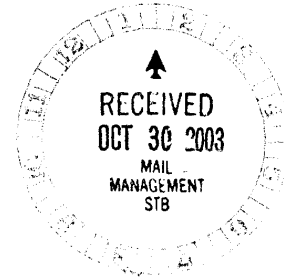
30 October 2003

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Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
7th Floor
Washington, D.C. 20423

Re - DHX, Inc. v. Matson Navigation Company and SL Service,
Inc., f/k/a Sea-Land Service, Inc. STB Docket WCC-105
LETTER MOTION FOR LEAVE TO FILE NUNC PRO TUNC

Dear Mr. Williams,

On October 16, 2003 the Board set a filing date of October 28, 2003 for the submission of Complainant's Opening Statements. The proceeding involves primarily issues of costs, confidential agreements and issues of revenue and exclusionary treatment as a destructive competition practice. The submission of Complainant was in three substantial parts, the Case Statement, Complainant's Opening Verified Statements, and the submission of depositions and exhibits of defendants' witnesses. The very large volume of confidential documents involved resulted in an approximate 5-6,000 pages for each copy of Complainant's Opening Case. The total documents were approximately 13 copies at 5,000 to equal 65,000 pages of material.

In early October, counsel for Complaint retained a legal document production company to assist in the processing and preparation of Complainant's submission. On October 28, 2002 when counsel went to pickup the documents, it was determined that some confidential documents were intermixed with public documents as well as some pagination issues. A effort was made to correct these apparent problems and the further that counsel for Complainant examined the final production, the individual sets had been reviewed and were correct when tendered for production, it became apparent that the problem was more extensive than at first perceived. In fact, after an effort had been undertaken, it was determined that most

Mr. Vernon A. Williams
30 October 2003
Page Two

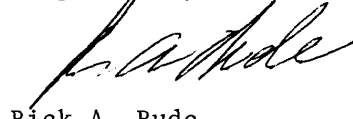
of the documents that were associated with confidential materials contained sufficient error that they would have to be redone. Counsel for Complainant contacted counsel for defendants, Mr. Richard Allen and Mr. C. Jonathan Benner. Counsel was advised by Mr. Benner that he could agree to a delay in the filing and Mr. Allen requested that if it were possible, a set of documents that were available be delivered. A set of documents, less the deposition transcripts and exhibits (which contained the most serious issues) was personally delivered to Mr. Allen. A set of documents was delivered to Mr. Benner's office on October 29, 2003. Any remaining document issues have been corrected and both defendants' counsel have confidential and public versions of the documents. Ironically, the issues involved the public versions of the documents rather than the confidential. The Public version is a less extensive copy of the same document as the confidential version.

Complainant's Verified Statements and Case Statement were also delivered to the Board on the 29th but they were 5 minutes too late as everyone had left the mail delivery room. Complainant, this morning has submitted all documents to the Board having had to review each document, originals and copies, to make sure there were no other errors.

It is hereby respectfully requested that the Board grant Complainant leave to file its Opening Verified Statements, Nunc Pro Tunc and such documents be accepted for filing. Defendants have not suffered serious prejudice in this matter and decisions on the merits of proceedings is favored.

Counsel is also enclosing three copies of the appropriate computer disc and three copies of a CD Rom which contains the financial and shipment records that are identified as Scheules 1 through 16 to the Statement of Mr. Paul B. Chun.

Respectfully submitted,



Rick A. Rude

Counsel For DHX, INC.

encls.

cc-

C. Jonathan Benner, Esq.
Richard A. Allen, Esq.