

Beth A. Wood, CPA
State Auditor

STATE OF NORTH CAROLINA
Office of the State Auditor

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June 18, 2009

Mr. Carl J. Stewart, Jr., Chairman
Board of Directors
North Carolina State Ports Authority
2202 Burnett Boulevard
Post Office Box 9002
Wilmington, North Carolina 28402

Dear Chairman Stewart:

The Office of the State Auditor (OSA) received a complaint through its *Hotline* concerning the Sprint Service at the Charlotte Inland Terminal operated by the North Carolina State Ports Authority. It was alleged that the Charlotte Terminal was operating a freight brokerage service without proper licensing. It was further alleged that there were deficiencies in the procedure for assigning loads to truckers as well as the manner by which the Charlotte Terminal determines the fees paid to truckers. Pursuant to North Carolina General Statute §147-64.6, our investigation of this matter resulted in the following findings and recommendations.

1. Operating without a Broker's License

The Ports Authority was never licensed to operate the Sprint Service at the Charlotte Terminal since the service began in 1989. When informed of this by OSA during the course of its investigation, the Authority's Chief Operating Officer contacted the Federal Motor Carrier Safety Administration (FMCSA) to follow up on a previous effort by the Authority to secure a license. On November 10, 2008, a license was issued.

The Ports Authority applied to the FMCSA for a broker's license in July 2007. Issues related to a \$10,000 bond and a trust fund agreement submitted in support of the license application caused a delay. In a letter to FMCSA dated January 15, 2008, the Authority's Special Deputy Attorney General stated that he was "able to run down the source of the problem" and enclosed additional documentation as well as a check payable to the FMCSA. He went on to express his belief that "this matter can now be settled and FMCSA can accept the Trust Agreement which has been submitted in support of its application for Broker authority." No further action was taken by the Ports Authority given its belief that the matter was now resolved.

The FMCSA requires a license to operate as a broker. It defines a broker as *a company that arranges for the truck transportation of cargo belonging to others, utilizing for-hire carriers to provide the actual truck transportation. The broker does not assume responsibility for the cargo and usually does not take possession of the cargo.*

The activities conducted by the Sprint Service fall within the definition of a broker. Consequently, the Ports Authority is required to register as a broker with the FMSCA.¹ The conduct of operations as a broker for the transportation of property in violation of the registration requirements of 49 U.S.C. 13901 is subject to a minimum penalty of \$650 per violation.²

Recommendation:

The Ports Authority should evaluate its operating activities on an ongoing basis to ensure that all federal, state and local licensing requirements are identified and complied with.

2. Absence of Written Operating Procedures

Written procedures are not in place for any of the job responsibilities or functions performed by the associates at the Charlotte Terminal. A significant disruption to services could occur in the event that the Terminal's Chief Clerk and/or Manager were unexpectedly to leave their positions.

Recommendation:

The Ports Authority should document fully for each job category at the Charlotte Terminal all job responsibilities, procedures and process flows in a manner that someone with little or no knowledge of the task to be accomplished can successfully perform them. In other words, documentation should "walk" a person through the particular job to be done.

3. Inadequate Documentation of Calls

The Charlotte Terminal lacks an organized method for recording incoming phone calls from truckers requesting a load and outgoing phone calls to truckers awaiting a load assignment. The Chief Clerk makes handwritten notes on a sheet of 8 ½ x 11 lined paper as calls from truckers are received. The notes recorded by the Chief Clerk are difficult to understand and do not include the current date, time and any comments indicating why a particular driver was not assigned a load.

Recommendation:

The Ports Authority should develop a trucker call log to be used by the Charlotte Terminal to record all calls pertaining to requests for loads and the assignment of loads. At a minimum, the log should contain the current date, time, trucking company name, driver name, purpose of call, and outcome. A brief explanation should be recorded in the outcome column for those truckers requesting, but not receiving, a load.

¹ Title 49, U.S.C. Sections 13901 and 13904.

² 49 CFR 386, Appendix B, para. (g)(2).

4. Internal Control Weakness for Sprint Service Accounts Receivable and Payable

The Ports Authority's accounts receivable and payable systems concentrate far too many duties in a single Charlotte Terminal position without the necessary checks and balances. The absence of effective segregation of duties at the Charlotte Terminal without compensating controls increases the risks of, for example, unrecorded funds owed by customers and the payment of invoices for services not rendered.

The Charlotte Terminal Manager has complete control over the editing of all fields in the Confirmation Sheet which is used as the source document for billings to customers (accounts receivable) and payments to truckers (accounts payable). The Confirmation Sheet is a document prepared by the Charlotte Terminal that includes information pertaining to a load assignment arranged by Sprint. Examples of information shown on the Confirmation Sheet include the load assignment date, customer name, shipper name and address, load description and weight, base shipping charges and overweight fees plus fuel surcharges where applicable.

The Charlotte Terminal Manager also has the ability to send a Confirmation Sheet to Wilmington's Accounts Receivable ("A/R") Department, indicating that money is due, or withhold the Confirmation Sheet, which would keep the transaction from being recorded in the Port Authority's records.

Furthermore, the Charlotte Terminal Manager receives all invoices from truckers and all bills of lading from shippers. The Manager is responsible for matching each trucking company invoice to the Confirmation Sheet and the bill of lading, approving all trucker invoices, and sending them to the Ports Authority's Accounts Payable Department.

Additional responsibilities of the Charlotte Terminal Manager include checking cargo weights and seal numbers in the Port's TOS³ system; and revising weights and adding seal numbers and overweight charges where necessary.

Recommendation:

The Ports Authority should implement at its main office at the Port of Wilmington additional internal control to compensate for the inability to implement effective segregation of duties at the Charlotte Terminal. The following expanded control procedures which focus on processing Sprint Service invoicing and customer billing should be implemented:

- Truckers should be required to submit a separate invoice for each load. Truckers now can submit multiple loads on a single invoice, which increases the possibility of duplicate payments since the Ports Authority system would be unlikely to detect such duplication.
- The Wilmington Accounts Receivable (A/R) billing clerk should send a copy of each processed Confirmation Sheet to the Accounts Payable (A/P) clerk. The A/P clerk would then match this copy of the Confirmation Sheet with each trucking company invoice and the shipper's bill of lading before it is set up for payment in the A/P system. Since each

³ TOS is an acronym for Terminal Operating System. It is a Windows application used for the management of container operations.

- trucking company invoice should have a corresponding billing to a customer, this procedure should reduce the likelihood of paying an erroneous or fictitious invoice.
- Receivables older than 30 days should be evaluated for any A/P billing disputes.
- Accounts Payable should consult with Accounts Receivable for any trucker invoice for which a corresponding Confirmation Sheet is not received within 14 days.

5. Ambiguity in Rate Setting Procedure

No proof or evidence was provided to indicate that the process to establish rates was conducted and the most appropriate rate was determined. Rates are established at the Charlotte Terminal to provide both trucking companies and customers with definable costs for transporting goods to and from the Port of Wilmington.

Under the current process, the CIT Manager obtains three to five quotes by telephone. There are virtually no records maintained in support of the verbal quotes obtained, such as trucking company name, name and title of company representative providing the quote, date of quote or the route being quoted. There is no established method for selecting the most appropriate rate from the quotes received. The selection of the rate is simply left to the Charlotte Terminal Manager with no documentation required.

Recommendation:

The Ports Authority should establish a written procedure for the Charlotte Terminal to solicit and select trucking company rate quotes. Procedures should provide for quotes to be documented by a fax or e-mail from the company providing the quote and should also define the method used to select the most appropriate rate from those quoted.

6. Records Retention Requirements for Sprint Services Documentation Needed

No set procedures are in place at the Charlotte Terminal for retaining most documents received or prepared by Terminal associates. (The Port Authority's Chief Operating Officer said that any original documents delivered from the Charlotte Terminal to the Port of Wilmington offices are maintained by the Authority in accordance with its record retention requirements.)

Recommendation:

The Ports Authority should establish records retention requirements for the Charlotte Terminal's Sprint Services operations consistent with the Authority's retention requirements.

7. Use of "Truck Mail" Should Be Discontinued

The Charlotte Terminal uses truckers to transport mail, including trucking company invoices, to the Port of Wilmington offices. This method of transportation, referred to as "truck mail," increases the possibility that documents may be tampered with, lost or stolen.

Mr. Carl J. Stewart, Jr., Chairman

June 18, 2009

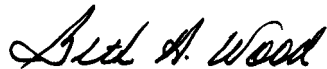
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Recommendation:

The Ports Authority should discontinue the use of truck mail to send documents to Wilmington and instead use the United States Postal Service or an established express mail carrier.

Please provide your written response to these findings and recommendations including corrective actions taken or planned by June 23, 2009. In accordance with General Statute §147-64.6(c) (12), the Governor, the Attorney General and other appropriate officials will receive copies of this management letter. If you have any questions or wish to discuss this matter further, please contact us. We appreciate the cooperation received from the employees of the North Carolina State Ports Authority during the course of our review.

Sincerely,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

Management letters and responses receive the same distribution as audit reports.



Carl J. Stewart, Jr.
Chairman

June 19, 2009

The Honorable Beth A. Wood, State Auditor
North Carolina Office of the State Auditor
2 South Salisbury Street
20601 Mail Services Center
Raleigh, NC 27699-0601

Dear Ms. Wood:

The management of the North Carolina State Ports Authority has carefully reviewed the findings and considered the recommendations made by the Office of the State Auditor as related to the recent OSA investigation of the Authority's Sprint Service at the Charlotte Inland Terminal. The Authority's responses are respectfully presented below.

1. Operating without a Broker's License

In 2006 NCSPA management determined that the evolved operating model of the Sprint Service was similar enough to the operation of freight brokerage that a license may be necessary and requested an opinion from the Authority's Special Deputy Attorney General. The opinion was that a license was necessary and efforts to apply for and obtain a license were initiated in July 2007. The activities and tasks associated with the license application were managed by the Special Deputy Attorney General, unfortunately the process proved to be very difficult in terms of communication with the Federal Motor Carrier Safety Administration (FMCSA). As evidenced by a letter from the Special Deputy Attorney General dated January 15, 2008, the NCSPA believed itself to have successfully completed the process and licensed to provide freight brokerage services. The NCSPA held this belief until contacted by the Office of the State Auditor as a result of an anonymous complaint that the NCSPA was operating without a license. It was at this time that the NCSPA determined that the original application had been retracted due to clerical errors by the FMCSA. Within a matter of days, the COO, with the assistance of a new Special Deputy Attorney General, contacted the FMCSA and obtained the license on November 10, 2008 without additional filings or payments to the FMCSA.

NORTH CAROLINA STATE PORTS AUTHORITY

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The Audit recommendation is that the Ports Authority should evaluate operating activities on an ongoing basis to ensure all federal, state and local licensing requirements are identified and complied with. The NCSPA is in agreement and will continue to review all facets of its operation for compliance with federal and state licensing requirements.

2. Absence of Written Operating Procedures

The Authority agrees with the Audit recommendation to fully document the job responsibilities relative to the Sprint Service in terms of task procedure and process in a manner that would provide step-by-step instruction for providing services. Development of such an instructional tool - a 'how to' manual - will be completed by May 31, 2009.

3. Inadequate Documentation of Calls

The Audit recommendation that Charlotte Intermodal Terminal should implement a 'trucker call log' is agreed and has been implemented. CIT management will review and ensure that the trucker call log contains all data and information elements recommended by the Audit Report.

4. Internal Control Weakness for Sprint Service Accounts Receivable and Payable

The Authority concurs with the assessment as presented in the report and will implement corrective action as recommended.

5. Ambiguity in Rate Setting Procedures

The Audit recommends establishing a written procedure for the Sprint Service to solicit and select trucking company rate quotes that provides confirmation by fax or email and defines the method for selection of the most appropriate quote. The NCSPA agrees with the recommendation to require quotes to be confirmed by fax or email. The selection methodology will also be documented. These steps will be completed no later than May 31, 2009.

6. Records Retention Requirements for Sprint Services Documentation Needed

The NCSPA agrees with the Audit recommendation that a retention policy be developed and articulated in writing. The Authority's Finance department will coordinate with CIT to ensure that all relevant records are retained in a manner consistent with the Authority's record retention policy. This will be completed by June 30, 2009.

7. Use of "Truck Mail" Should Be Discontinued

The NCSPA agrees that "truck mail" should be discontinued.

The NCSPA appreciates the professional manner in which this investigation and audit have been performed, and believes it has been the catalyst for constructive changes that will improve quality and control in the Sprint Service. The Authority looks forward to working with the OSA to bring this matter to closure.

Sincerely,

A handwritten signature in black ink that reads "Carl Stewart". The signature is written in a cursive style with a large, prominent "C" and "S".

Carl J. Stewart, Jr., Chairman
North Carolina State Ports Authority