

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

PRECISION ASSOCIATES, INC.;
ANYTHING GOES LLC d/b/a MAIL
BOXES ETC., and JCK INDUSTRIES,
INC., on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

PANALPINA WORLD TRANSPORT
(HOLDING) LTD., *et al.*,

Defendants.

Case No.: 08-CV-00042 (JG) (VVP)

**[PROPOSED] ORDER PRELIMINARILY APPROVING PROPOSED SETTLEMENTS
AND CERTIFYING SETTLEMENT CLASS**

THIS CAUSE came before the Court on Plaintiffs' Motion for Preliminary Approval of Settlement, filed September 20, 2011. Plaintiffs have entered into Settlement Agreements with three groups of Defendants: (1) Deutsche Bahn AG, Schenker AG, Schenker, Inc., Bax Global Inc. and DB Schenker (collectively, "Schenker"); (2) EGL, Inc. and EGL Eagle Global Logistics, LP, Inc. (collectively, "EGL"); and (3) Vantec Corporation and Vantec World Transport (USA), Inc. (collectively, "Vantec") (collectively overall, "Settling Defendants"). The Court, having reviewed the Motion, its accompanying memorandum and the exhibits thereto, the Settlement Agreements, and the file, hereby:

ORDERS AND ADJUDGES:

Preliminary Approval of Settlement Agreements

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreements. Upon review of the record, the Court finds that each of the proposed Settlement Agreements, which were arrived at by arm's-length negotiations by highly experienced counsel, falls within the range of possible approval and each is hereby preliminarily approved, subject to further consideration thereof at a Final Approval Hearing. The Court preliminarily finds that each of the Settlements encompassed by the Settlement Agreements raises no obvious reasons to doubt its fairness and raises a reasonable basis for presuming that each of the Settlements and the terms of each Settlement Agreement satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that Notice of the Settlements should be given.

Class Certification

2. Pursuant to Rule 23 of the Federal Rules of Civil Procedure and in light of the proposed Settlements, the Court hereby finds that the prerequisites for a class action have been met and certifies the following class for settlement purposes (the "Settlement Class"):

All persons (excluding governmental entities, Defendants, their respective parents, subsidiaries and affiliates) who directly purchased Freight Forwarding Services

(a) for shipments within, to, or from the United States, or

(b) purchased or sold in the United States regardless of the location of shipment;

from any of the Defendants or any subsidiary or affiliate thereof, at any time during the period from January 1, 2001 to September 20, 2011.

3. The Court finds that the certification of the Settlement Class is warranted in light of the Settlement Agreements because:

(a) The Settlement Class, which has well over 1,000 members, is sufficiently numerous to satisfy the numerosity requirement;

(b) There are sufficient legal and factual issues common to the Settlement Class to meet the commonality requirement;

(c) Plaintiffs' and the Settlement Class' claims arise out of the same alleged illegal anticompetitive conduct and are based on the same legal theories, and therefore satisfy the typicality requirement;

(d) Plaintiffs Precision Associates, Inc., Anything Goes LLC d/b/a Mail Boxes Etc., and JCK Industries, Inc. have retained experienced counsel and do not have interests antagonistic to the class, and thus these Plaintiffs will fairly and adequately represent the Settlement Class; and

(e) Common issues, including those noted above, predominate over any individual issues affecting the members of the Settlement Class.

The Court also finds settlement of this Action on a class basis superior to other means of adjudicating this matter.

4. Plaintiffs Precision Associates, Inc., Anything Goes LLC d/b/a Mail Boxes Etc., and JCK Industries, Inc. (collectively, "Plaintiffs"), will serve as Class Representatives on behalf of the Settlement Class.

Other Provisions

5. Terms used in this Order that are defined in the Settlement Agreements are, unless otherwise defined herein, used in this Order as defined in the Settlement Agreements.

6. As of the date of entry of this Order, Plaintiffs and all members of the Settlement Class shall be preliminarily enjoined from commencing or prosecuting any action against the Settling Defendants based upon or relating to the Claims released in the Settlement Agreements

pending final approval of the Settlement Agreements or until such time as this Court lifts such injunction by subsequent order.

7. In the event that any of the Settlement Agreements is terminated in accordance with its provisions, any such Settlement Agreement and all proceedings had in connection therewith shall be null and void, except insofar as expressly provided to the contrary in the Settlement Agreement, and without prejudice to the *status quo ante* rights of Plaintiffs, the Settling Defendants, and the members of the Settlement Class.

8. If any Settlement Agreement is terminated or is ultimately not approved, the Court will modify any existing scheduling order to ensure that the Plaintiffs and Settling Defendants will have sufficient time to prepare for the resumption of litigation, including but not limited to the completion of discovery, preparation of expert reports, the filing of any summary judgment motion or motions, and preparation for trial.

9. The Court's certification of the Settlement Class as provided herein is without prejudice to, or waiver of: (a) the rights of any non-settling Defendant to contest certification of any other class proposed in this Action; or (b) the rights and/or arguments which have been or may be asserted by any non-settling Defendant in a motion to dismiss. The Court's findings in this Order shall have no effect on the Court's ruling on any motion to certify any class in this Action or on the Court's rulings concerning any non-settling Defendant's motion to dismiss; and no party may cite or refer to the Court's approval of the Settlement Class as persuasive or binding authority with respect to any motion to certify any such class or any non-settling Defendant's motion to dismiss.

IT IS SO ORDERED.

DATED: _____, 2011

HON. VIKTOR V. POHORELSKY
United States Magistrate Judge

Conformed copies furnished to:
Counsel of Record