

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93908 / January 5, 2022

Admin. Proc. File No. 3-20325

In the Matter of

FREESEAS INC.

SECOND SUPPLEMENTAL ORDER REGARDING SERVICE

On May 21, 2021, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”), pursuant to Section 12(j) of the Securities Exchange Act of 1934, against respondent FreeSeas Inc. (“Respondent”).¹ On July 6, 2021, the Division of Enforcement filed the Declaration of Gina Joyce stating that, pursuant to Commission Rule of Practice 141(a)(2)(ii),² service of the OIP was made on Respondent on June 16, 2021, by mailing the OIP to an address in Athens, Greece, which was taken from Respondent’s “last filing with the Commission,” and obtaining a confirmation of attempted delivery.

On July 28, 2021, the Division filed a status report stating that, in light of an order in another proceeding involving attempted service by mail on a respondent located in Greece,³ it had conferred with the Office of International Affairs (“OIA”) regarding the validity of the attempted service in this case. The Division stated that OIA had informed it that “Greece objects to service by mail, although it is a signatory to the Hague Convention.”⁴ The Division also explained that it was working with OIA “to effect service that is compliant with the Hague Convention or otherwise permissible under Greek law.” In light of the Division’s filing, we issued an order on August 5, 2021, that required the Division to file a status report concerning

¹ *FreeSeas Inc.*, Exchange Act Release No. 91970, 2021 WL 2134963 (May 21, 2021).

² 17 C.F.R. § 201.141(a)(2)(ii).

³ *Boston Carriers, Inc.*, Exchange Act Release No. 92422, 2021 WL 2987123 (July 15, 2021) (requiring the Division to submit additional information because it had not explained “what steps the Division took to ensure that [service on respondent under Rule of Practice 141(a)(2)(ii)] was valid” in Greece or “the basis for that determination”).

⁴ See Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965, 20 U.S.T. 361, 658 U.N.T.S. 163 (“Hague Convention”).

service of the OIP by October 26, 2021, and every 90 days thereafter until service is accomplished.⁵

On October 26, 2021, the Division filed a second status report stating that, after consulting with OIA, it had retained a third-party vendor to attempt service on Respondent pursuant to the Hague Convention. But the Division explained that the vendor had recently issued a refund because it “could not complete this task.”

On December 14, 2021, the Division filed a third status report stating that the vendor had provided the Division with a letter from the Greek Ministry of Justice declining to serve the OIP because, in its view, the Hague Convention governing service “does not apply to administrative cases.” The Division disputed this point stating that it “believes that the OIP can be served under the Hague Convention.” But the Division stated that because “the Greek government has taken the position that [the OIP] is not a document suitable for service under the Hague Convention as interpreted by the Greek Ministry of Justice, OIA has advised the Division that the document can be served by mail under Greek Law.” Thus, the Division asserted that “proper mail service under Rule 141(a)(2) has been accomplished via the attempted delivery by mail on June 17, 2021.”⁶

Additional information is necessary to assess the sufficiency of the service of the OIP on Respondent. Specifically, the Division should address the following questions:

1. “Greece is opposed to the method of services provided in Article 10” of the Hague Convention, which include service by mail pursuant to Article 10(a).⁷ On what basis did the Division and OIA conclude that Greece’s opposition to service by mail is limited to service of process in proceedings that Greece recognizes are subject to the Hague Convention? On what basis did the Division and OIA conclude that service by mail is not prohibited by Greek law in proceedings not

⁵ *FreeSeas Inc.*, Exchange Act Release No. 92567, 2021 WL 3423756, at *1 (Aug. 5, 2021).

⁶ See Rule of Practice 141(a)(2)(ii), 17 C.F.R. § 201.141(a)(2)(ii) (providing that “in the case of an issuer of a class of securities registered with the Commission,” such as Respondent, notice of a proceeding may be provided “by sending a copy of the [OIP] addressed to the most recent address shown on the entity’s most recent filing with the Commission by U.S. Postal Service certified, registered, or express mail and obtaining a confirmation of attempted delivery”); Rule of Practice 141(a)(2)(iv)(A), 17 C.F.R. § 201.141(a)(2)(iv)(A) (providing that notice of a proceeding to a person in a foreign country may be made by any method specified in Rule 141(a)(2) “that is not prohibited by the law of the foreign country”).

⁷ Text of Greek declarations with respect to the Hague Service Convention, <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=403&disp=resdn>; see also *Daskin v. Knowles*, 193 A.3d 717, 724 (Del. 2018) (“Greece is a State which objects to service of process via mail under Article 10.”). Articles 10(b) and (c), included in Greece’s objection, address certain forms of personal service.

subject to the Hague Convention? The Division should explain its answer and provide any supporting law or commentary.

2. The Division represents that the Greek government believes the Hague Convention is inapplicable to this proceeding, but the Division also states that it believes that the OIP can be served pursuant to the Hague Convention.⁸ In light of the Division's belief, and the fact that Greece objects to service by mail under the Hague Convention, can the Commission find that mailing the OIP to the respondent in Greece effected proper service? The Division should explain its answer and provide any supporting law or commentary.
3. Has the Division considered serving Respondent in its jurisdiction of organization? The Division states that Respondent's corporate registration in the Marshall Islands was annulled in August 2020, but it appears that Marshall Islands law may authorize service on dissolved corporations for three years after their dissolution.⁹ Alternatively, has the Division considered other methods of service authorized by Rule of Practice 141(a)(2)(iv)(A), (C), and (D)?

IT IS ORDERED that the Division of Enforcement file a response to this order by February 4, 2022, addressing the questions set forth above.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

⁸ Cf. *The Hartcourt Companies, Inc.*, Exchange Act Release No. 69815, 2013 WL 3146908 (ALJ June 21, 2013) (stating that the Division filed a return of service on company located in Greece from the "Greek Hague Convention Authority," which stated that the company was served "by personal delivery at the address on its most recent filing with the Commission").

⁹ See Marshall Islands Business Corporations Act § 105(1) (providing that "[a]ll corporations, whether they expire by their own limitations or are otherwise dissolved, shall nevertheless be continued for the term of three (3) years from such expiration or dissolution as bodies corporate for the purpose of prosecuting and defending suits by or against them"), <https://www.register-iri.com/wp-content/uploads/Associations-Law-courtesy-copy-published-by-the-RMI-Registrar-of-Corporations-Through-the-November-2018-Session.pdf> (unofficial version as of Nov. 2018). The Marshall Islands is a signatory to the Hague Convention governing service and objects to service by mail. <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=1438&disp=resdn>.