

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Allied Universal Corporation and )  
Chemical Formulators, Inc.'s Petition to ) Docket No. 040086-EI  
Vacate Order No. PSC-01-1003-AS-EI )  
Approving, as Modified and Clarified, the )  
Settlement Agreement between Allied )  
Universal Corporation and Chemical )  
Formulators, Inc., and Tampa Electric )  
Company and Request for Additional )  
Relief. )  
\_\_\_\_\_ )

**ODYSSEY MANUFACTURING COMPANY'S**  
**NOTICE OF FILING AND SERVICE OF**  
**ODYSSEY MANUFACTURING COMPANY'S**  
**MOTION FOR ATTORNEY'S FEE AND SANCTIONS**

ODYSSEY MANUFACTURING COMPANY, by and through undersigned counsel and pursuant to §57.105(5), Florida Statutes, hereby gives notice of its filing and service of Odyssey Manufacturing Company's Motion for Attorney's Fee and Sanctions. Twenty-one days have elapsed after initial service of the Motion on Allied/CFI and the filings and claims of Allied/CFI have not been withdrawn or appropriately corrected.

Dated this 23rd day of February, 2004.



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DOCUMENT NUMBER-DATE

02624 FEB 23 04

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished as indicated to the following on this 22<sup>nd</sup> day of February, 2004:


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**ODYSSEY MANUFACTURING COMPANY'S  
MOTION FOR ATTORNEY'S FEE AND SANCTIONS**

ODYSSEY MANUFACTURING COMPANY ("Odyssey"), by and through undersigned counsel and pursuant to §57.105(5), Florida Statutes, hereby files this Motion for Attorney's Fee and Sanctions, and in support thereof would state and allege as follows:

1. By the filing of this Motion, Odyssey does not acquiesce to the jurisdiction of the Commission on this question nor waive any argument it might otherwise have to contest the filings of Allied Universal Corporation and Chemical Formulators, Inc. ("Allied") in this docket to contest the issue of jurisdiction, or to contest any other issues which might result in the dismissal or denial of Allied's filings.

2. On January 30, 2004, Allied filed the Petition described hereinabove in the style of this docket, together with a Notice of Intent to request specified confidential classification. On January 16, Allied filed a Notice of Withdrawal of Motion Filed on January 13, 2004 in Docket No. 000061-EI. That withdrawn "motion" requested the same relief as the Petition in this docket. The "motion" was withdrawn "without prejudice". On January 29, 2004, Allied filed a Notice of

Withdrawal of Petition filed January 16, 2004. That Petition requested the same relief as the instant Petition. That Petition was withdrawn “without prejudice.”

3. Allied’s filings are not supported by the material facts necessary to establish the claim asserted therein and are not supported by the application of then existing law to these material facts. Allied and its counsel are currently well aware that the claims made in the above filings are unsupported as a matter of fact and law and the filings themselves make only a cursory attempt to construct a facade that the filings are for any purpose other than to gain a competitive advantage over Odyssey; to harass Odyssey; to cause Odyssey undue, unjust and unsubstantiated costs, effort and expense; and to justify or otherwise support a stay or continuance of a pending civil litigation initiated by Allied against Odyssey, which is currently set for trial early next month.


4. Section 57.105(4) requires that a motion by a party seeking sanctions under this section must be served, but may not be filed with or presented to the court, unless within 21 days after service of the motion, if the challenged paper, claim, defense, contention, allegation or denial is not withdrawn or appropriately corrected. By the time of the adjudication and disposition of this motion, Allied will have received Odyssey’s, substantial, and persuasive filing(s) which demonstrate what Allied already knows: that its filing is not supported by the material facts necessary to establish the claim made therein, that its filing is not supported by an application of existing law, that its filing has been made for an improper and unlawful purpose, and that its filing should be immediately withdrawn.

5. Odyssey herein seeks an award of sanctions, reasonable costs and attorney fees, and such other relief as the Commission deems appropriate against Allied and/or its counsel.

6. Counsel for Odyssey has previously consulted with counsel for Allied regarding Allied’s position on the prior iteration of this motion. Allied opposes the motion.

WHEREFORE, in consideration of the above, Odyssey respectfully requests that the Commission determine that Allied's filings, as referenced herein above, support an award of sanctions, attorney's fees and costs, and such other relief as the Commission deems appropriate under Section 57.105(5), Florida Statutes.

Dated this 30th day of January, 2004.

  
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*ODYSSEY MANUFACTURING COMPANY*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Facsimile and U.S. Mail to the following on this 30<sup>th</sup> day of January, 2004:

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odyssey\attorneysfee.mot.04docket

  
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