Double Brokering: What Does It Mean for Your Freight?

“Double brokering” is not an unheard-of term or practice in the transportation industry. However, under Federal Motor Carrier Safety Administration (FMCSA) regulations, double brokering is illegal. Specifically, Moving Ahead for Progress in the 21st Century, commonly referred to as MAP-21, prohibits a motor carrier from brokering freight in its possession. Additionally, there needs to be a legal separation from the carrier and brokering business.

MAP-21 also imposes limitations on assigning shipments to other brokers or carriers without the knowledge or permission of the freight originator, whether this is a shipper or a broker. Under these prohibitions, parties that engage in double-brokering may face civil penalties and private legal action.

Double Brokering Defined

Double brokering typically occurs when a motor carrier acts as an intermediary rather than completing the shipment of a load. It may also occur when a broker “hands-off” a load to another freight broker. In other words, double brokering occurs when the party that originally intended to haul the freight or broker the freight does not complete those duties, instead assigning them to another party.

Some examples of double brokering include:

1. A broker tendering a shipment to a carrier that then assigns the load to another carrier.
2. A broker tendering a shipment to a carrier that then assigns that load to its broker company that then tenders it to another carrier.
3. A shipper tendering a shipment to a carrier that then assigns that load to a broker or carrier.
4. A shipper tendering a shipment to a broker that then assigns it to another broker.

Implications for Carriers

Since December 2013, federal regulations have prohibited motor carriers from brokering freight in their possession. This means that a motor carrier cannot take freight in their possession and pass it to a licensed broker or to another motor carrier. In other words, motor carriers are only allowed to transport freight, not arrange that transportation.

If a carrier is unable to complete shipment of a load, MAP-21 regulations can create challenges and limit their options. However, the choice to double broker a load has both legal implications and practical ones. It can put a strain on the broker-carrier relationship and add to the United States' growing troubles with fraudulent brokering activities. Carriers that accept a double-brokered load, whether known or unknown to them, are also accepting a lower rate. This is because each party the shipment has passed through has already taken a cut.

Implications for Brokers

Pursuant to federal regulations, brokers must not declare any interest in the brokered cargo. Rather, their role under MAP-21 is to simply arrange transportation of freight. Therefore, a broker should have no control over the driver or the dispatch of the cargo, acting only as an intermediary between the shipper and the carrier.

Per MAP-21 regulations, freight brokers cannot simply pass off a load to another broker or take loads from motor carriers. Brokers need to be aware of where their shipments are coming from and the reputation of the carriers accepting their loads.

Finally, it is important to note the strain that double brokering puts on shippers and America's supply chains. When a load passes through multiple brokers and carriers, the result is extremely uneconomical. Moreover, if there is a claim on the load, the shipper may have to carry the burden of these claims as it can become difficult to track down the carrier that moved the freight.

What Should I Do if My Load is Double Brokered?

Whether you are a shipper, broker, or carrier, it is crucial to take quick action to secure your interests when a load has been double brokered. A thorough investigation to determine all brokers and carriers involved in these activities is essential. A transportation lawyer can help you identify the responsible parties and take actions to protect your rights.

If your load is double brokered, your attorney can help you:

- Report the offender(s) to the FMCSA National Consumer Complaint Database
- Send a cease-and-desist letter to the offender(s)
- File a lawsuit and seek compensation for damages

Be certain to retain all records regarding the shipment and document all communications related to the shipment. You will want to include these documents with your FMCSA complaint and your lawyer will need them to investigate your case and take appropriate action.

Load Brokering Concerns? Contact us Today

Double brokering is on the rise. In Q4 of 2022 and Q1 of 2023, there was a 400% increase in complaints. These rising numbers are coming over a decade since MAP-21 went into effect. Fraudulent brokering hurts carrier rates and cause an array of liability issues, harming the innocent parties more often than not.

If you believe your shipment was double brokered, are fighting with bad actors, or facing freight claim challenges, we can help. Our experienced transportation lawyers are here to support you and protect your interests.