

**STATE OF ARKANSAS  
SECURITIES DEPARTMENT**

IN THE MATTER OF

FEDEX CORPORATION  
AND FDX, INC.

ORDER EXEMPTING TAKEOVER  
OFFER PURSUANT TO ARK. CODE  
ANN. § 23-43-108(c)  
ORDER No. 00-061-S

**FINDINGS OF FACT**

1. FedEx Corporation ("FedEx") and American Freightways Corporation, an Arkansas corporation ("American Freightways"), have entered into an Agreement and Plan of Merger, dated November 12, 2000 (the "Merger Agreement"), providing for the merger of American Freightways with and into FDX, Inc., a Delaware corporation and a wholly-owned subsidiary of FedEx ("FDX").

2. The Merger Agreement provides for the merger to be preceded by a cash tender offer, under which FDX will acquire up to 50.1 percent of the outstanding common stock of American Freightways at a price of \$28.13 per share.

3. Upon representations of counsel for FedEx and upon other information and belief, it appears that:

- (a) The proposed tender offer is subject to the requirements of the federal securities laws regulating tender offers, particularly Section 14(d) of the Securities Exchange Act of 1934 and the regulations issued thereunder;
- (b) FedEx has filed or will file a Schedule TO with the Securities and Exchange Commission pursuant to Exchange Act Rule 14d-3;
- (c) The detailed information disclosed in the Schedule TO is substantially equivalent to the information that would be required to be disclosed to the American Freightways

shareholders under Section 111(c) of the Arkansas Investor Protection Takeover Act, codified in Ark. Code Ann. § 23-43-101 *et seq.* (the “Act”);

(d) The second step of the proposed transaction – in which American Freightways will be merged with and into FDX – will require the distribution to American Freightways shareholders of a proxy statement/prospectus prepared in accordance with the Securities Act of 1933 and the regulations issued thereunder;

(e) The provisions of federal securities law applicable to the proposed transaction afford substantially the same investor protection as the Act; and

(f) The proposed transaction has been negotiated by the parties at arm’s length, and approved by the boards of directors of FedEx and American Freightways.

#### **CONCLUSIONS OF LAW**

Ark. Code Ann. § 23-43-108(c) provides that the commissioner may by rule or order exempt from any provisions of the Act any takeover offers where compliance with the Act is not necessary for the protection of the equity security holders of the target company.

#### **OPINION**

Based on the foregoing findings of fact and upon other facts, information and belief, it is the opinion of the Arkansas Securities Commissioner that compliance by FedEx and FDX with the provisions of the Act is not necessary for the protection of the shareholders of American Freightways. FedEx and FDX are required, in connection with the proposed tender offer, to provide all shareholders of American Freightways, including those who may be Arkansas residents, with the information contained in Schedule TO, which information is substantially equivalent to the information required to be disclosed under the Act. Completion of the proposed merger of American Freightways with and into FDX will require distribution to

American Freightways shareholders of a proxy statement/prospectus containing detailed information about the companies and the transaction. Information provided through compliance with the Act would thus be duplicative in all material respects.

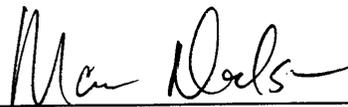
The intent of the Act is to afford adequate protection to a target company and its shareholders through full disclosure of all material facts relating to a tender offer. It does not appear that compliance with the provisions of the Act would afford the shareholders of American Freightways any further protection beyond that afforded by federal securities law. Due to the nature of the transaction and the disclosures to be contained within FedEx's and FDX's Schedule TO and proxy statement/prospectus, it is found that compliance with the provisions of the Act by FedEx and FDX is not necessary for the protection of the shareholders of American Freightways.

#### **ORDER**

IT IS THEREFORE ORDERED that, pursuant to Ark. Code Ann. § 23-43-108(c), the cash tender offer of FedEx and FDX for shares of the outstanding common stock of American Freightways, and the related merger of American Freightways with and into FDX, are exempt from the provisions of Ark. Code Ann. §§ 23-43-101 through 117.

No fact, finding or statement contained herein, nor the fact that an exemption from application of the Act is granted hereunder means that the Commissioner has passed in any way upon the merits or qualifications of, or recommended, given approval, endorsed or otherwise supported the transaction covered by this Order.

WITNESS MY HAND AND SEAL this 16th day of November, 2000.



MAC DODSON  
SECURITIES COMMISSIONER