

ORIGINAL

(S E R V E D)  
( December 7, 2000 )  
( FEDERAL MARITIME COMMISSION )

FEDERAL MARITIME COMMISSION

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DOCKET NO. 00- 12

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REVOCATION OF LICENSES, PROVISIONAL LICENSES AND  
ORDER TO DISCONTINUE OPERATIONS IN U.S.- FOREIGN TRADES  
FOR FAILURE TO COMPLY WITH  
THE NEW LICENSING REQUIREMENTS OF THE  
OCEAN SHIPPING REFORM ACT OF 1998

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ORDER TO SHOW CAUSE

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Effective May 1, 1999, the Ocean Shipping Reform Act of 1998 (“OSRA”), Pub. L. 105-258, 112 Stat. 1902, made numerous changes to the Shipping Act of 1984 (“1984 Act”), 98 Stat. 67 (46 U.S.C. app. §§. 1701 through 1720). As a result of those amendments, section 19 of the 1984 Act, 46 U.S.C. app. § 1718, established a new form of regulated entity – ocean transportation intermediaries (“OTI”), defined to include ocean freight forwarders and non-vessel-operating common carriers (“NVOCC”). While continuing the requirement that all freight forwarders be licensed by the Federal Maritime Commission (“Commission”), the revised section 19 for the first time required that NVOCCs operating in the United States also be licensed. In addition, NVOCCs were required by section 8 of the 1984 Act, 46 U.S.C. app. §1707, as amended, to begin publishing

their tariffs in an electronically accessible automated tariff system. New financial responsibility requirements also were imposed upon OTIs by OSRA.

Effective May 1, 1999, the Commission prescribed new regulations at 46 CFR Part 5 15 (*Licensing, Financial Responsibility Requirements, and General Duties-for Ocean Transportation Intermediaries*), implementing the revisions to the 1984 Act with respect to OTI licensing and financial responsibility (64 FR 11156, March 8, 1999). The Commission also prescribed new regulations effective May 1, 1999, implementing the OSRA requirements as to carrier automated tariff systems, at 46 CFR Part 520 (*Carrier Automated Tariffs*) (64 FR 11218, March 8, 1999).

Under the Commission's implementing regulations, all freight forwarders licensed under the 1984 Act were required by May 1, 1999, to increase the amount of their proof of financial responsibility on file from \$30,000 (plus \$10,000 for each unincorporated branch office) to \$50,000 (plus \$10,000 for each unincorporated branch office). Such freight forwarders were permitted to continue operating under their existing 1984 Act licenses until the Commission issued licenses under the new OSRA licensing regime. Those freight forwarders listed in Schedule A have not yet submitted evidence of increased financial responsibility and, therefore, have not been issued new licenses under OSRA. The Commission now proposes to revoke the existing 1984 Act licenses of those forwarders listed in Schedule A for failure to comply with the new OSRA requirements.

The regulations also required that each NVOCC in the United States with an active Automated Tariff Filing and Information system ("ATFI") tariff and effective financial responsibility on file, should submit by May 1, 1999, an *Application for a License as an Ocean Transportation Intermediary* (Form FMC-18), along with proof of increased financial responsibility from \$50,000 to \$75,000 (plus \$10,000 for each unincorporated branch office), and Form FMC-1 indicating the

location of its electronically published tariff. Those NVOCCs in the process of complying with these three requirements continued to operate under provisional licenses while their applications for an OTI license were being processed. The NVOCCs listed in Schedule B have not yet complied with those requirements and, therefore, have not been issued new licenses under OSRA. The Commission now proposes to revoke provisional licenses of those NVOCCs listed in Schedule B for failure to comply with the new OSRA requirements.

A third category of OTIs comprises those entities which, under the same name, were licensed freight forwarders and tariffed and bonded NVOCCs as of April 30, 1999. These OTIs were required to meet both the new freight forwarder and NVOCC requirements described above, but were permitted to continue operating under their existing 1984 Act licenses while new OTI licenses were being processed. The OTIs listed in Schedule C have not yet complied with these freight forwarder and NVOCC requirements and, therefore, have not been issued new OTI licenses pursuant to OSRA. The Commission proposes to revoke the 1984 Act and/or provisional licenses of those OTIs listed in Schedule C for failure to comply with the new OSRA requirements.

In addition, each foreign domiciled NVOCC with an active ATFI tariff and effective financial responsibility on file was required, by May 1, 1999, to increase its evidence of financial responsibility from \$50,000 to \$150,000, and to file Form FMC-1 indicating the location of its electronically published tariff.<sup>7</sup> The foreign NVOCC listed in Schedule D has filed Form FMC-1, but has not increased its proof of financial responsibility to \$150,000. The Commission proposes to direct the

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<sup>7</sup>Foreign domiciled NVOCCs also were provided the option of becoming licensed by meeting the OTI (NVOCC) requirements of 46 CFR Part 5.15.

foreign entity listed in Schedule D to cease and desist from operating as an OTI in the U.S.-foreign trades for failure to comply with the new OSRA requirements.

Since April 1999, Commission staff has taken a number of actions to inform and advise all OTIs of the new requirements, and to encourage prompt, voluntary compliance with the new mandates of OSRA. The former Bureau of Tariffs, Certification and Licensing, by letter of April 5, 1999, notified all freight forwarders and NVOCCs of the new OSRA licensing, financial responsibility and tariff publishing requirements. On May 17, 2000, the new Bureau of Consumer Complaints and Licensing (“BCCL”), which currently has responsibility in this area, sent letters to over 500 of those entities that had previously failed to comply with the OSRA requirements, warning those entities that continued failure to comply risked revocation of their licenses, or other action to suspend their right to continue operations in U.S. trades. Each recipient was notified specifically of any deficiencies in its prior filings, and was advised to promptly provide all submissions required to comply with OSRA. Since then, the Commission’s staff has worked directly with many of the affected OTIs to help them comply.

Most recipients of the May 17 letters made the necessary filings to comply with OSRA and were issued new OTI licenses. However, in early September 2000, BCCL staff again attempted to notify, by phone and by facsimile, approximately 200 of those remaining entities not in compliance, that formal proceedings could be pursued against them. Those efforts resulted in compliance by roughly another 100 entities. However, those 81 OTIs listed in Schedules A, B, C and D to this order still have not met the licensing, financial responsibility and/or tariff publication requirements imposed by OSRA and the Commission’s implementing regulations, despite the many efforts of Commission staff to obtain their compliance.

NOW THEREFORE, IT IS ORDERED That, pursuant to sections 11 and 14 of the Shipping Act of 1984, 46 U.S.C. app. §§1710 and 1713, the entities listed in Schedules A, B, and C to this Order are directed to submit affidavits of fact and memoranda of law to show cause why the Commission should not revoke their licenses for failure to comply with section 19 of the Shipping Act of 1984, as amended, and 46 CFR Part 5 15;

IT IS FURTHER ORDERED That, pursuant to sections 11 and 14 of the Shipping Act of 1984, the entities listed in Schedules A, B, C, and D to this Order are directed to submit affidavits of fact and memoranda of law to show cause why the Commission should not order each of them to cease and desist from operating as an ocean transportation intermediary, including publication of any tariff, in the foreign trade of the United States, for failure to comply with sections 8 and/or 19 of the Shipping Act of 1984, as amended, and 46 CFR Parts 515 and 520;

IT IS FURTHER ORDERED That this proceeding is limited to the submission of facts and memoranda of law;

IT IS FURTHER ORDERED That any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed no later than the day fixed below;

IT IS FURTHER ORDERED That the entities listed in Schedules A, B, C and D to this Order are named as Respondents in this proceeding. Affidavits of fact and memoranda of law tiled by Respondents and any intervenors in support of Respondents shall be filed no later than January 12, 2001;

IT IS FURTHER ORDERED That the Commission's Bureau of Enforcement be made a party to this proceeding;

IT IS FURTHER ORDERED That reply affidavits and memoranda of law shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondents no later than February 12, 2001;

IT IS FURTHER ORDERED That rebuttal affidavits and memoranda of law shall be filed by Respondents and intervenors in support no later than February 27, 2001;

IT IS FURTHER ORDERED That:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit;

(b) Should any party believe that an oral argument is required, that party must submit a request specifying the reasons therefore and why argument by memorandum is inadequate to present the party's case; and

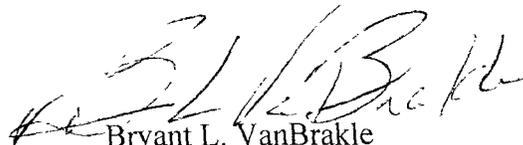
(c) Any request for evidentiary hearing or oral argument shall be filed no later than February 12, 2001;

IT IS FURTHER ORDERED That notice of this Order to Show Cause be published in the *Federal Register*, and that a copy thereof be served upon each respondent at its last known address;

IT IS FURTHER ORDERED That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.118, as well as being mailed directly to all parties of record;

FINALLY, IT IS ORDERED That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.61, the final decision of the Commission in this proceeding shall be issued by August 13, 2001.

By the Commission.



Bryant L. VanBrakle  
Secretary

## **SCHEDULE A**

Agency International Forwarding, Inc.

Air & Sea Inc.

Almcorp Project Transport, Inc.

Auto Overseas Ltd.

Centra Worldwide Inc dba Cwi Container Line

Chin, Johnnie C. F. dba J C Express

Excel Shipping Corp.

Federal Warehouse Company

Frontier International Forwarders, Inc.

Hopkins, James E. Db a Hopkins Services

Intermare Agency Services, Inc.

International Trade and Logistics, Inc.

Maurice Pincoffs Company, Inc.

Oceanic Freights, Inc.

P. H. Petry, Company

S.h.r. Enterprises, Inc.

S.t.s. International, Inc.

Time Definite Services, Inc.

Transpo Service, Ltd.

Treset Corporation

## **SCHEDULE B**

A.I.F. Services, Inc. dba Agency International Forwarding, Inc.

Airlift Container Lines, Inc.

Albatross Shipping Inc.

Andreani Corporation

Auto Export Services North America, Inc.

Blackbird Line, Inc.

Bulkmatic Transport Company

C & F Worldwide Agency Corp.

Calico Equipment Corp. dba Global Equipment Transport

Cargo Maritime Services, Inc.

Century Express, Inc.

Con- Way Intermodal, Inc.

Continental Shipping & Trading Import - Export, Inc.

Continental Van Lines, Inc. dba Continental International

Denali International, Inc.

Deugro Ocean Transport, Inc.

Dukes Systems Corp.

Exploit Express Freight Inc.

Feith, Cornelis J. dba Tiger Express

Formerica Consolidation Service, Inc.

Gulf South Forest Products, Inc.

Hemisphere International Shipping, Inc.

Inter-American Freight Consolidators, Inc.

International Distribution, Inc.

International Transport Agency dba I.T.A.

Iris Enterprises Corp. dba Iris Cargo

J.C. Express of Miami, Corp.

Johnson Storage & Moving Co.

Landstar Ranger, Inc.

Loa Int'l (USA) Transport Co. Inc.

Manna Freight Systems, Inc.

Millenium Logistics Services, Inc.

Nador Shipping Corporation

Naviera Mundial Inc.

Ocean Pacific Lines, Inc.

Og International (USA) Co., Inc.

Pagoda Container Line Corp.

Professional Cargo Services Int'l Inc.

Roberto Bucci (USA) Inc.

Rolines Shipping Corp.

Sanchez, Carlos B. dba R & S Trading

Sea-Land Logistics, Inc.

Seajet Express Container Line Ltd. dba Gateway Container Line

Seamax, Inc

Sunmar Shipping, Inc. dba Sunmar Alaska Service

Taiun Company (U.S.A.) Inc.

Transbridge International, Inc.

Transneftgazstroy America, Inc.

Universe Freight Brokers, Inc. dba Seacarriers

Victory Van Corporation dba Victory Van International

World Marine Services Dominicana, LLC

World Wide Cargo Logistics, Inc.

Yellow Freight System, Inc.

#### **SCHEDULE C**

Advante Customs Broker and Freight Forwarders Inc.

Allied International N.A., Inc.

Alrod International, Inc. dba Alrod Ocean Company

Cargo Transport, Inc.

Poseidon Freight Forwarders, Inc. dba Poseidon Line

Sea Expo Freight Services, Inc.

Trans-Alliance Int'l Fwdg. Co. dba Nova Ocean Line

#### **SCHEDULE D**

Unitrans Shipping & Air Cargo Limited

FEDERAL MARITIME COMMISSION

[DOCKET NO. 00-12]

REVOCATION OF LICENSES, PROVISIONAL LICENSES AND ORDER TO DISCONTINUE OPERATIONS IN U.S.-FOREIGN TRADES FOR FAILURE TO COMPLY WITH THE NEW LICENSING REQUIREMENTS OF THE OCEAN SHIPPING REFORM ACT OF 1998

Notice of Issuance of Order to Show Cause

Notice is given that on December 7, 2000, the Federal Maritime Commission ("Commission") served an Order directing 81 ocean transportation intermediaries ("OTIs") ("Respondents") to show cause both why their ocean transportation intermediary licenses (permanent and/or provisional) should not be revoked and why they should not be directed to discontinue their operations in the foreign trades of the United States for failure to comply with the requirements of the Ocean Shipping Reform Act of 1998, Pub. L. 105-258, 112 Stat. 1902 ("OSRA"). The Commission took this action because the Respondents still have not met new requirements effective May 1, 1999 prescribed by OSRA and the Commission's implementing rules thereunder, notwithstanding extensive efforts by the Commission to bring them into compliance.

Specifically, Respondents have been directed pursuant to sections 11 and 14 of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app §§1710 and 1713, to submit affidavits of fact and memoranda of law to show cause why: the Commission should not

revoke their licenses for failure to comply with section 19 of the 1984 Act and 46 CFR Part 515; and why the Commission should not order each of them to cease and desist from operating as an OTI, including publication of any tariff, in the foreign trade of the United States.

The Order requires that affidavits of fact and memoranda of law filed by Respondents and any intervenors in support of Respondents be filed no later than January 12, 2001.

The full text of the Order may be viewed on the Commission's home page at [www.fmc.gov](http://www.fmc.gov), or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW, Washington, DC.

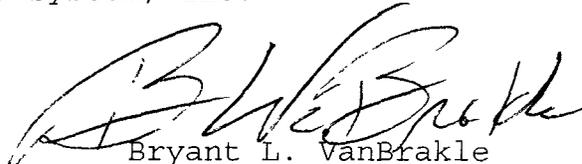
Petitions for leave to intervene may be filed in accordance with 46 CFR 502.72.

The Order to Show Cause was served on the following ocean transportation intermediaries, which have been designated Respondents in this proceeding:

A.I.F. Services, Inc. dba Agency International Forwarding, Inc.  
 Advante Customs Broker and Freight Forwarders Inc.  
 Agency International Forwarding, Inc.  
 Air & Sea Inc.  
 Airlift Container Lines, Inc.  
 Albatross Shipping Inc.  
 Allied International N.A., Inc.  
 Almcorp Project Transport, Inc.  
 Alrod International, Inc. dba Alrod Ocean Company  
 Andreani Corporation  
 Auto Export Services North America, Inc.  
 Auto Overseas Ltd.  
 Blackbird Line, Inc.  
 Bulkmatic Transport Company  
 C & F Worldwide Agency Corp.  
 Calico Equipment Corp. dba Global Equipment Transport

Cargo Maritime Services, Inc.  
Cargo Transport, Inc.  
Centra Worldwide Inc dba Cwi Container Line  
Century Express, Inc.  
Chin, Johnnie C. F. dba J C Express  
Con-Way Intermodal, Inc.  
Continental Shipping & Trading Import -  
Export, Inc.  
Continental Van Lines, Inc. dba Continental  
International  
Denali International, Inc.  
Deugro Ocean Transport, Inc.  
Dukes Systems Corp.  
Excel Shipping Corp.  
Exploit Express Freight Inc.  
Federal Warehouse Company  
Feith, Cornelis J. dba Tiger Express  
Formerica Consolidation Service, Inc.  
Frontier International Forwarders, Inc.  
Gulf South Forest Products, Inc.  
Hemisphere International Shipping, Inc.  
Hopkins, James E. Dba Hopkins Services  
Intermare Agency Services, Inc.  
Inter-American Freight Consolidators, Inc.  
International Distribution, Inc.  
International Trade and Logistics, Inc.  
International Transport Agency dba I.T.A.  
Iris Enterprises Corp. dba Iris Cargo  
J.C. Express of Miami, Corp.  
Johnson Storage & Moving Co.  
Landstar Ranger, Inc.  
Loa Int'l (USA) Transport Co. Inc.  
Manna Freight Systems, Inc.  
Maurice Pincoffs Company, Inc.  
Millenium Logistics Services, Inc.  
Nador Shipping Corporation  
Naviera Mundial Inc.  
Oceanic Freights, Inc.  
Ocean Pacific Lines, Inc.  
Og International (USA) Co., Inc.  
P. H. Petry, Company  
Pagoda Container Line Corp.  
Poseidon Freight Forwarders, Inc. dba Poseidon  
Line  
Professional Cargo Services Int'l Inc.  
Roberto Bucci (USA) Inc.  
Relines Shipping Corp.  
S.h.r. Enterprises, Inc.  
S.t.s. International, Inc.  
Sanchez, Carlos B. dba R & S Trading  
Sea Expo Freight Services, Inc.  
Sea-Land Logistics, Inc.

Seajet Express Container Line Ltd. dba Gateway  
Container Line  
Seamax, Inc  
Sunmar Shipping, Inc. dba Sunmar Alaska  
Service  
Taiun Company (U.S.A.) Inc.  
Time Definite Services, Inc.  
Trans-Alliance Int'l Fwdg. Co. dba Nova Ocean  
Line  
Transbridge International, Inc.  
Transneftegazstroy America, Inc.  
Transpo Service, Ltd.  
Treset Corporation  
Unitrans Shipping & Air Cargo Limited  
Universe Freight Brokers, Inc. dba Seacarriers  
Victory Van Corporation dba Victory Van  
International  
World Marine Services Dominicana, LLC  
World Wide Cargo Logistics, Inc.  
Yellow Freight System, Inc.



Bryant L. VanBrakle  
Secretary