

( S E R V E D )  
( August 1, 2002 )  
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

---

DOCKET NO. 02-1 1

---

Empire United Lines Co., Inc. – Possible Violations of Sections 1 O(a)( 1) and 10(b)(1) of the Shipping Act of 1984, and Section 10(b)(2)(A) of the Shipping Act of 1984 as amended by the Ocean Shipping Reform Act of 1998, as well as the Commission’s Regulations at 46 CFR 515.3 l(e) as amended

---

**ORDER OF INVESTIGATION AND HEARING**

---

Empire United Lines Co., Inc. is a licensed ocean transportation intermediary (“OTI”) operating as a non-vessel-operating common carrier (“NVOCC”) and located at 2303 Coney Island Avenue, Brooklyn, New York. Prior to the enactment of the Ocean Shipping Reform Act of 1998 (“OSRA”), Empire held itself out as an NVOCC pursuant to its tariff, FMC No. 012052-002, which was filed on November 14, 1997 in the Federal Maritime Commission’s (“Commission”) Automated Tariff Filing and Information System (“ATFI”). Empire continues to hold itself out as an NVOCC pursuant to a tariff published by Sumner Tariff Service, Inc. Furthermore, through April 1999,

Empire maintained an NVOCC bond, No. 102848, in the amount of \$50,000' with Intercargo Insurance Company located in Schaumburg, Illinois.<sup>2</sup>

Empire was incorporated in the State of New York on April 9, 1993. Mr. Mikhail Khitrinov occupies the position of President and owns 100% of the capital stock. According to information available to the Commission, Empire regularly ships cargo in the trade from the United States to Europe and Russia.

Based on evidence available to the Commission, it appears that, with respect to thousands of shipments, from April 2, 1997 through October 5, 1999, Empire knowingly and willfully provided false information by listing a freight forwarder on numerous bills of lading for Empire's shipments thereby allowing the freight forwarder to collect unwarranted compensation from several ocean common carriers. Furthermore, it appears that on at least twenty-one (21) occasions between April 18, 1997 and December 15, 1998, Empire collected a portion of the unwarranted compensation from the freight forwarder through invoices for various alleged services and products resulting in Empire knowingly and willfully obtaining ocean transportation for property at less than the rates and charges that would otherwise be applicable to the ocean transportation of Empire's shipments.

It further appears that, during the same approximate time period, Empire processed twenty (20) shipments documented by invoices showing the ocean freight rates charged by Empire to its customers. It further appears that the rates assessed and collected by Empire from its customers bear

---

<sup>1</sup> As of May 1, 1999, and pursuant to the Commission's regulations at 46 CFR 515.21, Empire has increased its bond to the required amount of \$75,000.

<sup>2</sup> In compliance with OSRA, Empire filed an application for a license to operate as an OTI on April 20, 1999. An OTI license, #12052N, was issued by the Commission's Bureau of Consumer Complaints and Licensing ("BCCL") on February 22, 2000.

no relation to the rates set forth in Empire's ATFI tariff on file with the Commission.<sup>3</sup>

Section 10(a)(1) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1709(a)(1), prohibits any person from knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means, obtaining or attempting to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable. Section 10(b)(1) of the 1984 Act, 46 U.S.C. app. 1709(b)(1), prohibits a common carrier from charging, collecting or receiving greater, less or different compensation for the transportation of property than the rates and charges set forth in its tariff. Likewise, section 10(b)(2)(A) of the 1984 Act as amended by OSRA, 46 U.S.C. app. 1709(b)(2)(A) (1999), prohibits a common carrier from providing service other than in accordance with the rates contained in its published tariff. Moreover, a licensee is prohibited from "prepar[ing] or fil[ing] or assist[ing] in the preparation or filing of any claim, affidavit, letter of indemnity, or other paper or document concerning an ocean transportation intermediary transaction which it has reason to believe is false or fraudulent, nor shall any licensee knowingly impart to a principal, shipper, common carrier or other person, false information relative to any ocean transportation intermediary transaction." 46 CFR 515.31(e). Under section 13 of the 1984 Act, 46 U.S.C. app. 1712, a party is subject to a civil penalty of not more than \$27,500 for each violation knowingly and willfully committed, and not more than \$5,500 for other violations.<sup>4</sup> Section 13 further provides that a common carrier's tariff may be suspended for violations of section 10(b)(1) for a period not to

---

<sup>3</sup> Since the filing of its tariff on November 14, 1997 until July 1, 2002, Empire maintained a tariff consisting solely of a Cargo, N.O.S. rate.

<sup>4</sup> This penalty amount reflects an adjustment for inflation pursuant to the Commission's regulations at 46 CFR pt. 506.

exceed one year, while section 23 of the 1984 Act, 46 U.S.C. app. 1721, provides for a similar suspension in the case of violations of section 1 O(a)(1) of the 1984 Act. Finally, section 19(b) of the 1984 Act, 46 U.S.C. app. 1718(b) (1999), provides that, in the event violations of the 1984 Act are found, the license of Empire may be suspended or revoked.

NOW THEREFORE, IT IS ORDERED, That pursuant to sections 10, 11, 13, 19, and 23 of the 1984 Act, 46 U.S.C. app. 1709, 1710, 1712, 1718, and 1721, an investigation is instituted to determine:

1) whether Empire United Lines Co., Inc. violated section 10(a)(1) of the 1984 Act by knowingly and willfully obtaining transportation at less than the rates and charges otherwise applicable by the receipt of an unlawful rebate resulting from Empire's collection of a portion of unwarranted freight forwarder compensation from another OTI;

2) whether Empire United Lines Co., Inc. violated section 10(b)(1) of the 1984 Act and section 1 O(b)(2)(A) of the 1984 Act as amended, by charging different compensation for the transportation of property than the rates set forth in its published tariff;

3) whether Empire United Lines Co., Inc. violated the Commission's regulations at 46 CFR 5 15.3 l(e) as amended, by knowingly and willfully providing false information to several ocean common carriers on documents concerning Empire's shipments.

4) whether, in the event violations of sections 1 O(a)(1), 1 O(b)(1), and 1 O(b)(2)(A) of the 1984 Act and/or 46 CFR 5 15.3 1 (e) are found, civil penalties should be assessed against Empire United Lines Co., Inc. and, if so, the amount of the penalties to be assessed;

5) whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, the tariff of Empire United Lines Co., Inc. should be suspended;

6) whether the Ocean Transportation Intermediary license of Empire United Lines Co., Inc.

should be suspended or revoked pursuant to section 19 of the 1984 Act; and

7) whether, in the event violations are found, an appropriate cease and desist order should be issued.

IT IS FURTHER ORDERED, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

IT IS FURTHER ORDERED, That Empire United Lines Co., Inc. is designated as Respondent in this proceeding;

IT IS FURTHER ORDERED, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

IT IS FURTHER ORDERED, That notice of this Order be published in the Federal Register, and a copy be served on the parties of record;

IT IS FURTHER ORDERED, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

IT IS FURTHER ORDERED, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

IT IS FURTHER ORDERED, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record; and

IT IS FURTHER ORDERED, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by August 1, 2003 and the final decision of the Commission shall be issued by December 1, 2003,



Bryant L. VanBrakle  
Secretary

ORIGINAL

FEDERAL MARITIME COMMISSION

DOCKET NO. 02- 11

EMPIRE UNITED LINES CO., INC. -- POSSIBLE VIOLATIONS  
OF SECTIONS 10(a)(1) and IO(b)(1) OF THE SHIPPING ACT OF 1984,  
AND SECTION 10(b)(2)(A) OF THE SHIPPING ACT OF 1984  
AS AMENDED BY THE OCEAN SHIPPING REFORM ACT OF 1998,  
AS WELL AS THE COMMISSION'S REGULATIONS  
AT 46 C.F.R. 515.31(e) AS AMENDED

Order of Investigation and Hearing

Notice is given that on August 1, 2002, the Federal Maritime Commission served an Order of Investigation and Hearing on Empire United Lines Co., Inc. ("Empire") an ocean transportation intermediary ("OTI") operating as a non-vessel-operating common carrier. It appears that, with respect to thousands of shipments between April 2, 1997 and October 5, 1999, Empire knowingly and willfully provided false information by listing a freight forwarder on numerous bills of lading for Empire's shipments thereby allowing the freight forwarder to collect unwarranted compensation from several ocean common carriers. Also, between April 18, 1997 and December 15, 1998, it appears that on at least twenty-one occasions Empire collected a portion of the unwarranted compensation from the freight forwarder through invoices for various alleged services and products. It further appears that during the same approximate time period, Empire processed twenty shipments documented by invoices that indicate that the rates assessed and collected differ from those set forth in Empire's ATFI tariff.

This proceeding therefore seeks to determine (1) whether Empire violated section 10(a)(1) of the Shipping Act of 1984 ("1984 Act") by knowingly and willfully obtaining transportation at less than the rates and charges otherwise applicable by the receipt of an unlawful rebate resulting from Empire's collection of a portion of unwarranted freight forwarder

compensation from another OTI; whether Empire violated section 10(b)(1) of the 1984 Act and 10(b)(2)(A) of the 1984 Act as amended, by charging different compensation for the transportation of property than the rates set forth in its published tariff; whether Empire violated the Commission's regulations at 46 CFR 515.31(e) as amended, by knowingly and willfully providing false information to several ocean common carriers on documents concerning Empire's shipments; whether, in the event violations of sections 10(a)(1), 10(b), and 10(b)(2)(A) of the 1984 Act and/or 46 CFR 515.31(e) are found, civil penalties should be assessed against Empire and, if so, the amount of the penalties to be assessed; whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, the tariff of Empire should be suspended; whether the OTI license of Empire should be suspended or revoked; and whether, in the event violations are found, an appropriate cease and desist order should be issued.

The full text of the Order may be viewed on the Commission's home page at <http://www.fmc.gov/> or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person may file a petition for leave to intervene in accordance with 46 CFR 502.72.



Bryant L. VanBrakle  
Secretary

C2-11

and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 11, 2003, and the final decision of the Commission shall be issued by December 12, 2003.

**Bryant L. VanBrakle,**  
*Secretary*

[FR Doc.02-20714 Filed 8-14-02; 8 45 am]

BILLING CODE 6730-01-P

## FEDERAL MARITIME COMMISSION

[Docket No. 02-10]

### All Flags Forwarding Inc.-Possible Violations of Sections 10(a)(1) and 19(d) of the Shipping Act of 1984, as Well as Section 19(c) of the Shipping Act of 1984 as Amended by the Ocean Shipping Reform Act of 1998; Order of Investigation and Hearing

Notice is given that on August 1, 2002, the Federal Maritime Commission served an Order of Investigation and Hearing on All Flags Forwarding, Inc. ("All Flags"). All Flags is a previously licensed ocean transportation intermediary ("OTI") operating as a freight forwarder and a non-vessel-operating common carrier. Until May 12, 2002, All Flags maintained an ocean freight forwarder bond and an NVOCC bond. Subsequent to the termination of All Flags' financial responsibility on May 12, 2002, its OTI license was automatically revoked on the same date pursuant to the Commission's regulations at 46 CFR 515.26.

It appears that between April 2, 1997 and August 17, 1999, All Flags and its principals knowingly and willfully collected freight forwarder compensation from at least three ocean common carriers on thousands of shipments without performing any of the required functions. This activity appears to have resulted from another NVOCC consistently listing All Flags and the name of its President in the freight forwarder box on oceans bills of lading for shipments processed entirely

by that NVOCC's employees.

Furthermore, between April 18, 1997 and December 15, 1998, it appears that on at least twenty-one occasions All Flags and its principals knowingly and willfully shared a portion of the compensation with the NVOCC.

This proceeding therefore seeks to determine (1) whether All Flags violated section 10(a)(1) of the Shipping Act of 1984 ("1984 Act") and 46 CFR 510.22(a) by directly allowing another NVOCC to obtain ocean transportation at less than the rates and charges otherwise applicable by knowingly and willfully sharing a portion of its unwarranted freight forwarder compensation with that NVOCC; (2) whether All Flags violated section 19(d) of the 1984 Act and 19(e) of the 1984 Act as amended, as well as 46 CFR parts 510 and 515 as amended, by knowingly and willfully obtaining freight forwarder compensation without performing the services required for the receipt of such compensation; (3) whether, in the event violations of sections 10(a)(1), 19(d), and 19(e) of the 1984 Act and/or 46 CFR parts 510 and 515 are found, civil penalties should be assessed and, if so the amount, and (4) whether, in the event violations are found, an appropriate cease and desist order should be issued.

The full text of the Order may be viewed on the Commission's home page at <http://www.fmc.gov/> or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person may file a petition for leave to intervene in accordance with 46 CFR 502.72.

**Bryant L. VanBrakle,**  
*Secretary*

[FR Doc.02-20672 Filed 8-14-02; 8:45 am]

BILLING CODE 6730-01-P

## FEDERAL MARITIME COMMISSION

[Docket No. 02-11]

### Empire United Lines Co., Inc.—Possible Violations of Sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984, and Section 10(b)(2)(A) of the Shipping Act of 1984 as Amended by the Ocean Shipping Reform Act of 1998, as Well as the Commission's Regulations at 46 CFR 515.31(e) as Amended; Order of Investigation and Hearing

Notice is given that on August 1, 2002, the Federal Maritime Commission served an Order of Investigation and Hearing on Empire United Lines Co., Inc. ("Empire") an ocean transportation intermediary ("OTI") operating as a

non-vessel-operating common carrier. It appears that, with respect to thousands of shipments between April 2, 1997 and October 5, 1999, Empire knowingly and willfully provided false information by listing a freight forwarder on numerous bills of lading for Empire's shipments thereby allowing the freight forwarder to collect unwarranted compensation from several ocean common carriers. Also, between April 18, 1997 and December 15, 1998, it appears that on at least twenty-one occasions Empire collected a portion of the unwarranted compensation from the freight forwarder through invoices for various alleged services and products. It further appears that during the same approximate time period, Empire processed twenty shipments documented by invoices that indicate that the rates assessed and collected differ from those set forth in Empire's ATFI tariff.

This proceeding therefore seeks to determine (1) whether Empire violated section 10(a)(1) of the Shipping Act of 1984 ("1984 Act") by knowingly and willfully obtaining transportation at less than the rates and charges otherwise applicable by the receipt of an unlawful rebate resulting from Empire's collection of a portion of unwarranted freight forwarder compensation from another OTI; whether Empire violated section 10(b)(1) of the 1984 Act and 10(b)(2)(A) of the 1984 Act as amended, by charging different compensation for the transportation of property than the rates set forth in its published tariff; whether Empire violated the Commission's regulations at 46 CFR 515.31(e) as amended, by knowingly and willfully providing false information to several ocean common carriers on documents concerning Empire's shipments; whether, in the event violations of sections 10(a)(1), 10(b), and 10(b)(2)(A) of the 1984 Act and/or 46 CFR 515.31(e) are found, civil penalties should be assessed against Empire and, if so, the amount of the penalties to be assessed; whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, the tariff of Empire should be suspended; whether the OTI license of Empire should be suspended or revoked; and whether, in the event violations are found, an appropriate cease and desist order should be issued.

The full text of the Order may be viewed on the Commission's home page at <http://www.fmc.gov/> or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person may file a petition for leave

to intervene in accordance with 46 CFR 502.72.

**Bryant L. VanBrakle,**  
Secretary

[FR Doc 02-20673 Filed 8-14-02; 8:45 am]

BILLING CODE 6730-01-P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 9, 2002.

**A. Federal Reserve Bank of Richmond** (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *First Citizens Bancorporation of South Carolina, Inc.*, Columbia, South Carolina; to merge with C B Financial Corp., Warrenton, Georgia, and thereby indirectly acquire Citizens Bank, Warrenton, Georgia.

**B. Federal Reserve Bank of Atlanta** (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309-4470:

1. *MCB Financial Group, Inc.*, Carrollton, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of McIntosh Commercial Bank (in organization), Carrollton, Georgia.

2. *GB&T Bancshares, Inc.*, Gainesville, Georgia; to acquire 100 percent of the voting shares of Hometown Bank of Villa Rica, Villa Rica, Georgia.

3. *NW Services Corporation*, Ringgold, Georgia; to acquire 100 percent of the voting shares of The Bank of Sharon, Sharon, Tennessee.

**C. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *State Capital Corporation, and State Bank & Trust Company Employee Stock Ownership Plan*, both of Greenwood Mississippi; to acquire up to 100 percent of the voting shares of Mississippi Southern Bank, Port Gibson, Mississippi.

2. *State Bank & Trust Company Employee Stock Ownership Plan*, Greenwood, Mississippi; to become a bank holding company by acquiring 25.08 percent of the voting shares of State Capital Corporation, Greenwood, Mississippi, and thereby indirectly acquire State Bank & Trust Company, Cleveland, Mississippi

**D. Federal Reserve Bank of San Francisco** (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *New Corporation*, Oakland, California; to become a bank holding company by acquiring 100 percent of the voting shares of Met Financial Corporation, Oakland, California, and thereby indirectly acquire Metropolitan Bank, Oakland, California.

Board of Governors of the Federal Reserve System, August 9, 2002.

**Robert deV. Frierson,**  
Deputy Secretary *Of the Board.*

[FR Doc. 02-20680 Filed 8-14-02, 8 45 am]

BILLING CODE 6210-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[Program Announcement 020831

### Cooperative Agreement for the Development of international Surveillance Systems, Enhancement of Epidemiologic Practice, and the Development of Epidemiologic Training Programs, Workshops, and Conferences for Ministries of Health (MOH) and Other international Health Organizations; Notice of Availability of Funds

#### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program for the development of international surveillance systems, enhancement of epidemiologic practice, and the development of epidemiologic training programs, workshops, and conferences for Ministries of Health (MOH) and international health organizations.

The purpose of this program is to provide leadership and technical assistance activities to assure that international health organizations have the infrastructure to support effective epidemiologic activities that are essential in providing public health services.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals encourage Ministries of Healths to develop efficient and comprehensive public health information and surveillance systems by promoting the use of the internet and by focusing on development of standards for communications and data elements and Efficiently respond to the needs of our Ministries of Health partners through the provision of epidemiologic assistance.

#### B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 307 of the Public Health Service Act, [42 U.S.C. sections 241 and 2421, as amended]. The Catalog of Federal Domestic Assistance number is 93.283

#### C. Eligible Applicants

Assistance will be limited to organizations that have at least one year proven scientific and technical experience to carry out international