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BEFORE THE
FEDERAL MARITIME COMMISSION

Docket No. 09 -01

MITSUI O.S.K. LINES LTD.

COMPLAINANT

v.

GLOBAL LINK LOGISTICS, INC., OLYMPUS PARTNERS, OLYMPUS
GROWTH FUND III, L.P., OLYMPUS EXECUTIVE FUND, L.P., LOUIS J.
MISCHIANI, DAVID CARDENAS, KEITH HEFFERNAN, CJR WORLD
ENTERPRISES, INC. AND CHAD J. ROSENBERG

RESPONDENTS

OLYMPUS RESPONDENTS' RESPONSES TO
COMPLAINANT'S PROPOSED FINDINGS OF FACT

Pursuant to the October 16, 2012 Order of the Administrative Law Judge, which incorporated the requirements of the June 22, 2010 Procedural Order issued by Judge Guthridge, and Rule 221 of the Commission's Rules of Practice and Procedure, Respondents Olympus Growth Fund III, L.P. ("OGF"), Olympus Executive Fund, L.P. ("OEF"), Louis J. Mischianti, L. David Cardenas and Keith Heffernan (hereinafter collectively referred to as "Olympus Respondents") hereby respond to Complainant Mitsui O.S.K. Lines, Ltd.'s Proposed Findings of Fact.

General Response and Objections

1. The Olympus Respondents object on the ground that they did not participate in the transactions at issue in this proceeding, have no direct knowledge of the subject transactions and are thus limited in their ability to respond. The Olympus

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Respondents base their responses to MOL's proposed findings of fact upon the record in this proceeding and the findings of the arbitration panel in the Global Link Arbitration (defined below), specifically without prejudice to the Olympus Respondents' position that they neither participated nor were involved in any of the transactions referenced herein.

2. The Olympus Respondents object to Complainant MOL's use of arguments and evidence developed in the prior arbitration (an adversary proceeding) brought by the purchasers of Global Link against the Olympus Respondents and CJR Respondents following the sale of Global Link (the "Global Link Arbitration"). MOL is attempting to use evidence from the Global Link Arbitration without any regard to the conclusions of the arbitration panel. MOL also is attempting to pass off allegations made by Global Link in the arbitration proceeding as direct evidence in this proceeding. MOL is entitled to do neither of these things. MOL must rely on direct evidence produced and developed in this proceeding. Furthermore, the Olympus Respondents object to the use of evidence from the Global Link Arbitration on the grounds that such evidence is unreliable and/or irrelevant hearsay. See Olympus Respondents' Reply Brief in Opposition to Complainant's Request for Relief (filed Mar. 1, 2013) at Argument, Point I.A.4.

3. The majority of MOL's proposed findings of fact relate to Respondent Global Link. These proposed findings of fact do not involve or relate to the Olympus Respondents. The Olympus Respondents object to the majority of MOL's proposed findings to the extent that the proposed findings denote, connote, suggest or imply that the Olympus Respondents are responsible with respect to or in any way arising out of

anything except proven direct, actual participation. The Olympus Respondents are not and cannot be held vicariously liable and cannot be targeted with or be compelled to respond to proposed findings suggesting otherwise. Vicarious liability is not at issue in, or a viable theory for, this proceeding. *See* Order Denying Appeal of Olympus Respondents, Granting in Part Appeal of Global Link, and Vacating Dismissal of Alleged Violations of Section 10(d)(1) in June 22, 2010 Memorandum and Order on Motions to Dismiss (Aug. 1, 2011) ("FMC Order") at p. 34 (MOL App. 1062). Accordingly, the Olympus Respondents object to and on this basis deny all such proposed findings of fact by incorporating this General Objection No. 3 by reference into the responses below.

The Olympus Respondents reserve their right to respond further to MOL's proposed findings of fact where the Olympus Respondents incorporate by reference this General Objection No. 3 should, in the judgment of the Olympus Respondents, circumstances warrant such further response.

Olympus Respondents' Responses

The Action:

1. On May 5, 2009, MOL commenced an action against Respondents Global Link Logistics, Inc.; Olympus Partners; Olympus Growth Fund III, L.P.; Olympus Executive Fund, L.P.; Olympus Executive Fund, L.P.; Louis J. Mischianti; David Cardenas, Keith Heffernan, CJR World Enterprises, Inc. and Chad J. Rosenberg. (Complaint, annexed hereto as Exh. D (App. 985)).¹

RESPONSE: Admit.

¹ Documents compiled by MOL in its Appendix are cited as MOL App. #. Documents compiled by the Olympus Respondents in their Appendix are cited as O.R. App. #.

2. Respondents can be divided into three (3) distinct groups: (a) Global Link Logistics, Inc., referred to as "Global Link"; (b) Olympus Partners; Olympus Growth Fund III, L.P. ("OGF"); Olympus Executive Fund, L.P. ("OEF"); Louis J. Mischianti; David Cardenas and Keith Heffernan, collectively referred to as "Olympus" or "Olympus Respondents"; and (c) CJR World Enterprises, Inc. and Chad J. Rosenberg, collectively referred to as "CJR" or "CJR Respondents." (Complaint (Exh. D) (Appx. at 985-87)).

RESPONSE: Admit 2(a) and 2(c). Deny 2(b) with respect to the inclusion of Olympus Partners. (Olympus Respondents' Motion to Dismiss Improperly Filed Complaint for Lack of Subject Matter Jurisdiction and For Failure to State a Claim, and For Other Appropriate Relief (filed June 17, 2009) at p. 1 n.1. Exhibit 11 (O.R. App. 178)). Further responding, see General Objection No. 3. incorporated herein by reference.

3. Respondents, jointly and severally, violated Sections 10(a)(1) and 10(d)(1) of the Shipping Act, 46 U.S.C. §§ 41102(a), 41102(c), as well as 46 C.F.R. § 515.31(e) by engaging in false and fraudulent practices and conduct, referred to as "split routing." (Complaint and Amended Complaint, annexed hereto as Exhs. D and F (App. 985-84 and 999-1008, respectively)).

RESPONSE: Deny. (Verified Answer of Olympus Respondents (MOL App. 1502-1517); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR

Respondents and expressly incorporated herein by reference). Further responding, see General Objection No. 3, incorporated herein by reference.

The Parties:

4. At all material times, MOL was an ocean common carrier that maintained a published tariff in accordance with the Shipping Act of 1984, as amended, and FMC regulations. Said tariff contained a sample copy of MOL's Bill of Lading as required by FMC regulations.

RESPONSE: Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Affidavit of Louis J. Mischianti ("Mischianti Aff.") (O.R. App. 12-14); Affidavit of L. David Cardenas ("Cardenas Aff.") (O.R. App. 8-11); Affidavit of Keith Heffernan ("Heffernan Aff.") (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

5. Respondent Global Link Logistics, Inc. ("Global Link") was at all material times an ocean transportation intermediary ("OTI"), licensed with the Federal Maritime Commission and operating as a non-vessel operating common carrier ("NVOCC"). (Global Link's Verified Answer and Affirmative Defenses to Mitsui O.S.K. Lines Ltd.'s Complaint, Counterclaim and Cross Claims ("Global Link Answer") at 2, annexed hereto as Exh. N (App. 1145), and Order Denying Appeal of Olympus Respondents, Granting in Part Appeal by Global Link, and Vacating Dismissal of Alleged Violations of Section 10(d)(1) in June 22, 2010

Memorandum and Order on Motions to Dismiss ("Order Denying Appeal") at 3, annexed hereto as Exh. H (App. 1032)).

RESPONSE: Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

6. Olympus Respondents were owners, officers and/or directors of Global Link during the period when the alleged violations of the Shipping Act occurred, and benefited from concealing the existence of "split routing" scheme. (Transcript of Deposition of Chad Rosenberg dated October 7, 2008 ("Rosenberg Dep.") at page 29, lines 9-21, annexed hereto as Exh. O (App. 1171); Order Denying Appeal (Exh. H) at 4 (App. 1033); and Global Link Voluntary Disclosure dated May 21, 2008 ("Global Link Voluntary Disclosure") at ¶ 14, annexed hereto as Exh. C (App. 116)).

RESPONSE: Deny. OEF and OGF acquired interests in the holding company of Global Link ("Holdings") in May 2003 and sold their interests on June 7, 2006. (Cardenas Aff. at ¶¶ 4, 5 (O.R. App. 8-9); Mischianti Aff. at ¶¶ 4, 5 (O.R. App. 12)) Messrs. Heffernan and Cardenas served as officers and board directors of Global Link and Holdings from May 2003 to June 2006. (Heffernan Aff. at ¶ 2 (O.R. App. 33); Cardenas Aff. at ¶ 6 (O.R. App. 9)) Mr. Mischianti served as a board director of Global Link and Holdings from May

2003 through June 2006. (Mischianti Aff. at ¶ 6 (O.R. App. 13)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

7. CJR Respondents were owners, officers and/or directors of Global Link during the period when the alleged violations of the Shipping Act occurred. They also benefited from the split routing scheme. (Order Denying Appeal (Exh. H) at 3 and 4 (App. 1032 and 1033)).

RESPONSE: Admit that CJR World Enterprises, Inc. owned shares of Holdings. Further admit that Mr. Chad Rosenberg served as an officer and/or director of Holdings and/or Global Link. Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

8. From 2003 through 2006, OGF owned 74.9% of the shares of Global Link Holdings, Global Link's parent. From 2003 through 2006, OEF owned .49% of the share of Global Link Holdings, and CJR Respondents owned 20.64% of Global Link Holdings. (Global Link Answer (Exh. N) at 14-15, ¶ 6 (App. 1057-58) and Order Denying Appeal (Exh. H) at 33, fn. 4 (App. 1062)).

RESPONSE: Admit that OGF owned 74.9% of the shares of Holdings, the holding company for Global Link, from May 2003 to June 7, 2006. Admit

that OEF owned 0.49% of the shares of Holdings from May 2003 through June 7, 2006. (Cardenas Aff. at ¶¶ 4, 5 (O.R. App. 8-9); Mischianti Aff. at ¶¶ 4, 5) (O.R. App. 12)). Admit that CJR World Enterprises, Inc. owned 20.64% of Holdings.

9. As a licensed NVOCC, Global Link is obligated to comply with all applicable rules and regulations of the FMC, including Sections 10(a)(1) and 10(d)(1) of the Shipping Act and Commission regulation 46 C.F.R. Sec. 515.1(e). (Order Denying Appeal (Exh. H) at 13 and 32 (App. 1042 and 1061) and Global Link's Amended Statement of Claim in Arbitration dated October 17, 2007 ("Global Link Amended Statement") at ¶¶ 49 and 68 (App. 1448 and 1457), annexed hereto as Exh. AG ("Global Link believes it is material compliance with all known federal, state, and local regulations. Global Link has procedures in place to ensure compliance with such regulations.")).

RESPONSE: Deny and refer to the full text and context of the referenced documents, as well as to the relevant statute and regulations. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the Olympus Respondents are marine terminal operators, ocean common carriers, ocean transportation intermediaries or otherwise entities or individuals licensed, regulated by or subject to the jurisdiction of the Commission. (Order Denying Petition of Olympus Growth Fund III, L.P. and Olympus Executive Fund, L.P.

for Declaratory Order, Rulemaking or Other Relief, Dkt. No. 08-07 ("Order in 08-07"), at p. 10 (O.R. App. 24); Verified Answer of Olympus Respondents at p. 2 (MOL App. 1503)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

10. As officers and directors of Global Link, the Respondents Louis Mischianti, David Cardenas, Keith Heffernan and Chad Rosenberg are charged with the responsibility of ensuring that Global Link, a licensed NVOCC, complied at all relevant times, with the rules and regulations under the Shipping Act. (Global Link Amended Statement (Exh. AG) at ¶¶ 49 and 68 (App. 1448 and 1457)).

RESPONSE: Deny. (FMC Order at pp. 33-36 (MOL App. 1061-1063); Verified Answer of Olympus Respondents at p. 2 (MOL App. 1503); Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Finally, the above proposed "finding of fact" is a legal conclusion.

The Service Contracts:

11. MOL began doing business with Global Link on or about May 11, 2004. (Global Link Answer (Exh. N) at 4, ¶ 1 (App. 1147)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14);

(Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35))).

Further responding, see General Objection No. 3, incorporated herein by reference.

12. Between May of 2004 and May of 2008, MOL entered into five (5) service contracts with Global Link, having the following service contract numbers: 5159351A04, 5159351A05, 5159351A06, 5159351A07 and 5159351A08. (Global Link Answer (Exh. N) at 4, ¶ B (App. 1147)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35))). Further responding, see General Objection No. 3, incorporated herein by reference.

13. These five service contracts are on file with the Commission and are attached hereto as of the last day of their effective dates. (5159351A04 (Exh. BV) (App. 1694-733); 5159351A05 (Exh. BW) (App. 1734-772); 5159351A06 (Exh. BX) (App. 1773-816); 5159351A07 (Exh. BY) (App. 1817-75); and 5159351A08 (Exh. BZ) (App. 1876-900)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14);

(Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further responding, see General Objection No. 3, incorporated herein by reference.

14. The service contracts provided both port-to-port rates and port-to-door or through rates to inland destinations in the United States. At the time each service contract was negotiated, Global Link was afforded an opportunity to negotiate rates to any inland destination required by its customers. Upon mutual agreement of the parties, the service contracts could also have been amended to add new rates if additional destinations were required at any time. Indeed, the contracts were amended on numerous instances. More specifically, SC #5159351A04 was amended 32 times; SC #5159351A05 was amended 33 times; SC #5159351A06 was amended 19 times; SC # 5159351A07 was amended 24 times; and SC # 5159351A08 was amended 6 times. (5159351A04 (Exh. BV) (App. 1694-733); 5159351A05 (Exh. BW) (App. 1734-772); 5159351A06 (Exh. BX) (App. 1773-816); 5159351A07 (Exh. BY) (App. 1817-75); and 5159351A08 (Exh. BZ) (App. 1876-900)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

15. The service contracts entered into between MOL and Global Link were subject to various tariff rules, including a rule relating to diversion (defined as a change in the original billed destination). At all relevant times, MOL's tariff rules required shippers to request any diversion of cargo in writing and required the payment of a diversion charge as well as the difference in price between the original and new destinations. (Global Link Answer (Exh. N) at 5, ¶ D (App. 1148)). MOL's tariff rule on diversion which is incorporated by reference in these service contracts is attached hereto as Exh. CA (App. 1901-36).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

16. From 2004 through at least 2006, Respondents engaged in a systematic scheme to defraud MOL and obtain ocean transportation at rates and charges different and lower than the applicable service contract and/or tariff rates by booking cargo to false inland destinations while arranging to have the cargo delivered by its preferred truckers to different inland destinations. (Global Link Answer (Exh. N) at 5, ¶ E (App. 1148) and Global Link Voluntary Disclosure (Exh. C) at ¶¶ 8, 10-18 (App. 111, 113-20)).

RESPONSE: Deny. (Verified Answer of Olympus Respondents (MOL App. 1502-1517); Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

Global Link voluntarily discloses an illegal scheme known as "split routing":

17. On May 21, 2008, Global Link voluntarily disclosed to the Commission that since at least 2004 it had engaged in a methodical and illegal enterprise known as "split routing" which "was based on falsely routing cargoes" (Global Link Voluntary Disclosure (Exh. C) at ¶ 10 (App. 113-14)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

18. Global Link referred to this practice with various names including "splits," "split routing," "split shipping," "mis-booking," and "re-routing." (CJR Respondents' Verified Answer and Affirmative Defenses to Amended Complaint dated July 9,

2010 ("CJR Respondents Answer") at 8, ¶ E, annexed hereto as Exh. P (App. 1194) and Global Link Answer (Exh. N) at 5, ¶ E (App. 1148)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

19. Global Link admitted that "split routing" was carried out as follows:

. . . Pursuant to the "split delivery" procedures, shipments from Asia would be consigned to Heeny [or later to Global Link] on the ocean carrier's master bill of lading to inland points in the United States that were not the actual locations where Global Link's customers were located or to which their shipments were to be delivered. Rather, these points were chosen by Global Link because the transportation rates to them were cheaper than to the actual delivery points. **The destination shown on the ocean carrier's master bill of lading would be the false destination chosen for its low transportation rate. The destination shown on the house bill of lading would be the true delivery location.**

(Global Link Voluntary Disclosure (Exh. C) at ¶ 8 and ¶ 4 (App. 111-12 and 109-10) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

20. Global Link further described the "split routing" as:

The "split delivery" scheme was based on falsely routing cargoes and worked as follows. Global Link, primarily Jim Briles and his staff, would analyze service contracts to identify particularly low-rated points. Global Link would then instruct Hecny [and later its own staff] to book shipments to those low-rated points and show them as destinations on the ocean carrier's master bills of lading. The house bills of lading, however, would show the actual destinations where Global Link's customers were located. **The shipments would then be transported by the ocean carrier to the port or rail ramp for the booked—but fictional—destination where the container would be picked up by a motor carrier for the final leg of the transportation movement to the actual destination.** It was also important for the false routing scheme that Global Link be able to designate its "preferred truckers" to be used by the ocean carriers. This is because it was necessary to find motor carriers who would be willing to deliver the ocean containers to a different destination than the one shown on the master bill of lading and the carrier's freight release. . . .

(Global Link Voluntary Disclosure (Exh. C) at ¶ 10 (App. 113) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

21. In addition to causing master bills of lading to be issued with false final destinations, Global Link also arranged to issue two (2) sets of delivery orders for each shipment. This practice was confirmed by the testimony of Dee Ivy, an employee of Global Link, who testified as follows:

Q. Okay. Are you familiar with a practice that's called split shipments or rerouting in this case?

Yes.

Q. What do you understand it to mean?

A. Split shipments for Global Link was when we would create a delivery order, two delivery orders actually. **One delivery order would go to the steamship line that showed the actual delivery location per the booking, and then a second delivery order would be sent to our trucker with the delivery address of our actual customer.**

So a split shipment to us meant that we had a shipment coming in that was going—where my customer was not where it was booked with the steamship line.

Q. Okay. Is a delivery order different from a bill of lading?

Yes.

Q. What is a delivery order?

A. A delivery order is the actual delivery instructions to the trucker or to the carrier to say this container is to be delivered to XYZ.

Q. Is that created by GLL?

Yes.

(Deposition of Dee Ivy dated August 21, 2008 ("Ivy Dep.") at page 11, line 21- page 12, line 21, annexed hereto as Exh. V (App. 1248) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

22. The Arbitration Partial Final Award further delineated the differences between the two (2) sets of delivery orders as follows:

Just as there were two bills of lading, there were separate delivery orders: a "truckline" delivery order showing the actual destination, and a "shipline" delivery order showing the false destination used in the master bill of lading.

(Exh. A (App. 8. fn. 11)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

23. The "split routing" scheme did not end with the issuance of false transportation documents. Full implementation of the "split routing" scheme involved use of the ocean carrier's trucking payment and was explained by Global Link as follows:

. . . [O]cean carriers establish trucking allowances to compensate motor carriers for the drayage of containers from ports or rail ramps to final destinations. **If the trucking allowance for the fictional destination would not cover the trucking move to the actual destination, Global Link would pay the motor carrier the difference. To avoid this, which would obviously reduce Global Link's profit on these shipments, Global Link tried to find cheap destination points with high trucking allowances from the ocean carriers.** When the cargo arrived in the United States, Global Link would create two delivery orders. One delivery order, entitled "Shipline," would be sent to the ocean carrier showing the name of the preferred trucker and the fictional destination from the ocean carrier's master bill of lading. The other delivery order, called the "Truckline," would be sent to the motor carrier. The Truckline delivery order would be identical to the Shipline order except for the destination, which would be the actual destination to which the motor carrier would deliver the container.

(Global Link Voluntary Disclosure (Exh. C) at ¶ 10 (App. 114)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Hefferman Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

24. In summary, Global Link's "split routing" scheme consisted of the following: Global Link would book containers to fictitious final inland destinations. These fictitious destinations would be set forth on the master bills of lading ("MBL") issued by MOL to Global Link and on "shipline" delivery orders prepared by Global Link and sent to MOL. The freight and charges for transportation to these

fictitious destinations were less than the freight and charges applicable to the actual destinations to which the containers were in fact transported by Global Link's preferred truckers. The actual final inland destinations were set forth in "truckline" delivery orders prepared by Global Link and given to its "preferred truckers" and in the house bills of lading ("HBL") issued by Global Link to its customers. By Global Link's own admission, the final destination given to the ocean carrier was totally false. Global Link also would, whenever possible, book containers to fictitious final destinations with high trucking payments, thus earning "credits" with the truckers. These "credits" could then be used in those instances where the actual final destinations were more distant and required a trucking payment that exceeded the amount paid by the ocean carriers for transportation to fictitious destinations. (Global Link Voluntary Disclosure (Exh. C) at ¶ 8 and 10 (App. 111 and 114)).

RESPONSE: Deny. The above proposed finding of fact does not involve or relate to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

25. This "credit/debit" system was confirmed by Eric Joiner of Global Link. Mr. Joiner described the practice as follows:

Q. What did you mean by debit and credit?

In other words, if there was additional on carriage expense to be carried forward, in other words, the point was -- let's say -- further but they were going to have to charge us the difference, then we would pay for that, and I refer to that as a debit, as opposed to a credit where the container went to a place where there was -- it cost the trucker less, and then the trucker would somehow give us money back.

(Transcript of Deposition of Eric Joiner dated October 10, 2008 ("Joiner Dep.") at page 76, line 18—page 77, line 2, annexed hereto as Exh. BA (App. 1540)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

26. Global Link admitted "actively t[aking] steps to conceal the false routing scheme from . . . ocean carriers." (Global Link Voluntary Disclosure (Exh. C) at ¶ 16 (App. 117)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

27. Global Link's active concealment of the "split routing" scheme "belies [any] assertions . . . that the carriers were aware of the misroutings." (Global Link Voluntary Disclosure (Exh. C) at ¶ 16 (App. 117)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

28. "Split routing" was nothing more than a euphemism for "lying [to ocean carriers] about where shipments are going." (Transcript of Deposition of John Williford dated July 18, 2008 ("Williford Dep.") at page 59, lines 11-20, annexed hereto as Exh. BO (App. 1691a and b)). In particular, Mr. Williford, a former executive at Global Link, testified as follows:

Q. Whatever you want to—

Do you use a particular phrase?

I don't like split routing, because it's a euphemism. I usually call it lying about where shipments are going.

Q. Who—who was being lied to?

The carriers.

Q. Carriers.

Is it your testimony sitting here under oath that none of the carriers knew that GLL was engaged in split or rerouted shipments?

That's not my testimony. My—I don't know whether they knew or not.

I was told they knew. Then, you know, it became clear that at least—at least big portions of the companies didn't know, but, you know, I don't—I don't—whether the company itself knew or didn't know, it's a complicated issue.

Q. Well, no, sir, I disagree. It's not so complicated. Did—

You're saying that somebody was lied to. Who—what carriers do you believe were lied to?

Maersk.

Q. OK. Anybody else?

MOL.

(Williford Dep. (Exh. BO) at page 59, line 14—page 60, line 19 (App. 1691a and b)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

29. Global Link knew it was lying to MOL about where its shipments were going. (Williford Dep. (Exh. BO) at page 59, line 22-page 60, line 19 (App. 1691a and b)).

RESPONSE: Deny and refer to the full text and context of the referenced document. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

30. "[T]hese illegal practices consisted of "split delivery" procedures that had been employed by Global Link for years to lower its shipping rates." (Global Link Voluntary Disclosure (Exh. C) at ¶ 16 (App. 117)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

Discovery of Global Link's "split routing" and commencement of FMC action:

31. Global Link successfully kept "split routing" a secret from MOL. MOL first discovered Global Link's "split routing" scheme in late July of 2008 when one of its employees, Paul McClintock, received a subpoena to testify in connection with an arbitration between the old and new owners of Global Link.² (Declaration of Kevin J. Hartmann dated February 17, 2012 ("Hartmann Declaration") at ¶ 16, fn. 9, annexed hereto as Exh. BM (App. 1632).

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

32. At no time prior to this subpoena had MOL been aware of Global Link's widespread "split routing" scheme. (Hartmann Declaration (Exh. BM) at ¶ 16, fn.

² On or about May 20, 2006, Global Link and its new owners, Golden Gate Logistics, commenced an arbitration under the auspices of the American Arbitration Association ("AAA") against the Olympus and CJR Respondents, the prior owners of Global Link, alleging among other things that the Olympus and CJR Respondents defrauded Global Link's purchasers by not revealing "split routing" as the source for Global Link's profit margin. The new owners of Global Link successfully recovered in excess of \$20 million from the Olympus and CJR Respondents. (Arbitration Partial Final Award (Exh. A (App. 58-59)) and Order of Court of Chancery of the State of Delaware dated October 8, 2008, annexed hereto as Exh. E (App. 995)).

RESPONSE. Deny and refer to the full text and context of the referenced documents. Further responding, see General Objection No. 3, incorporated herein by reference.

9 (App. 1632) and Declaration of Thomas M. Kelly dated January 10, 2013 ("Kelly Declaration") at ¶¶ 5-6, annexed hereto as Exh. CB (App. 1938)).

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

33. MOL thoroughly investigated allegations that certain MOL employees were aware of Global Link's "split routing" practices and, after interviewing those individuals, confirmed that any allegation that MOL condoned or participated in this scheme was untrue. (Hartmann Declaration (Exh. BM) at ¶¶ 17-18 (App. 1632) and Kelly Declaration at ¶¶ 3-7 (Exh.CB) (App. 1938)).

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at

(O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

34. As a result of its discovery of "split routing" practices, MOL demanded Global Link provide an accounting of all of its shipments with MOL. (Complaint and Amended Complaint (Exhs. D and F) at 6, ¶ M (App. 990 and 1004)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

35. Because Global Link refused to comply with MOI's request, MOL commenced this action against Global Link and the other Respondents. (Complaint and Amended Complaint (Exhs. D and F) at 6, ¶ M (App. 990 and 1004)).

RESPONSE: Admit to the fact of the commencement of these proceedings. Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

36. MOL commenced this action within three (3) years of discovery of the illegal and fraudulent "split routing" scheme by Respondents. (Complaint and Amended Complaint (Exhs. D and F) at 6, ¶ M (App. 990 and 1004)).

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection No. 3, incorporated herein by reference.

Global Link's illegal "split routing" scheme was complex and required numerous steps to keep it hidden:

37. Jim Briles, a Vice President and shareholder at Global Link, explained that the goal of Global Link's "split routing" practice was to find the most cost-effective routing possible on a given shipment. (Transcript of Deposition of Jim Briles dated June 4, 2008 ("Briles Dep.") at page 49, line 3—page 50, line 9, annexed hereto as Exh. T (App. 1217)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos 2 and 3, incorporated herein by reference.

38. Most cost-effective meant the lowest "landed cost," or the lowest cost in total transportation charges for a particular shipment, including ocean, rail and trucking. (Briles Dep. (Exh. T) at page 49, line 3—page 50, line 9 (App. 1217)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

39. Jim Briles further explained the lowest "landed cost" included finding and implementing "low-cost split moves." (Briles Dep. (Exh. T) at page 166, line 15—page 168, line 16 (App. 1229)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

40 Mr. Briles also explained that "split routing" required that different information be inserted in transportation documents involving the ocean carrier as compared

to the documents given to Global Link's customers and truckers. With respect to master and house bills of lading, Mr. Briles testified:

Q. Focusing on a split move, is there any information on it, on the bill of lading about a destination in the United States?

Focusing on the split, on the master [bill of lading], yeah, there's the contract final destination point.

Q. "Contract final destination point," could you explain what you mean by that?

It's where the container's booked to with the steamship line, based on the contract rate.

Q. And, again, focusing on a split move, is there similar information or the same information on the house bill of lading?

There is some similar information, and there is some same information.

Q. Is the final destination point the same?

On a split move?

Q. Correct.

No.

Q. Why is that?

The house bill is the receipt between our customer and us, and so it's based on the point we have in our contract with our customer.

(Briles Dep. (Exh. T) at page 109, line 23-110, line 23 (App. 1221)).³

³ With respect to its "split routing" scheme, Global Link regularly maintained two (2) sets of records or books for every transaction. David Donnini, a director of the new owners of Global Link, confirmed the existence of fraudulent and deceptive practice as follows.

Q. Two sets of books? What do you mean by that?

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

41. With respect to delivery orders, Mr. Briles testified:

Q. And in the split move situation, the information on the delivery order that goes to the ship line and the delivery order that goes to the trucking firm have some different information, correct?

On a split move, yes.

Q. And what is the different information?

The information on the DO to our trucker matches the house bill. The information on the DO to the steamship line matches the master bill.

Q. And why do you send a delivery order to the steamship line? What do they care?

They have to release the container to us.

A. The company has two bills of lading and maintains different sets of records for every transaction.

Q. All right.

A. Very unusual.

Q. You say that based on your enormous knowledge of how the freight-forwarding industry works?

A. I say that based on my 17 years of experience doing financial due diligence and sitting on the boards of companies

Transcript of Deposition of David Donnini dated April 16, 2008 at page 189, lines 3-15

RESPONSE Deny and refer to the full text and context of the referenced document. Further deny that the above involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

Q. And they release the container to you based on a delivery order that has an address that's not where the container is going; is that correct?

On the split moves?

Q. Yes.

Yes.

(Briles Dep. (Exh. T) at page 113, line 4—page 114, line 1 (App. 1222)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

42. In an email exchange on July 14, 2005 with Mr. Briles, Respondent Rosenberg specifically noted that "split routing" involved false booking that benefits Global Link to the detriment of ocean carriers. In particular, Respondent Rosenberg advised Mr. Briles:

Don't try to get the carriers to use logic **Don't forget why we mis-book, because the carriers don't make sense. So let's use it to our advantage—and not push for low ipi's in areas where we already have 1 good ipi.**

(Email from Chad Rosenberg to Jim Briles dated July 12-15, 2005, annexed hereto as Exh. AI (App. 1472) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

43. Respondent Rosenberg specifically directed Mr. Briles to repeatedly "mis-book" shipments to the final inland destination with the lowest cost for a particular region. (Email from Chad Rosenberg to Jim Briles dated July 12-15, 2005, annexed hereto as Exh. AI (App. 1472)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

44. "Split routing" did not only involve locating favorable freight rates and charges on certain routings. "It was also important for the false routing scheme that Global Link be able to designate its "preferred truckers" to be used by ocean carriers. This is because it was necessary to find motor carriers who would be willing to deliver the ocean containers to a different destination than the one

shown on the master bill of lading and carrier's freight release." (Global Link Voluntary Disclosure (Exh. C) at ¶ 10 (App. 113-14)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

45. "Split routing" required locating a "preferred trucker" with the lowest or best cost in transporting the last leg of the transit. (Email exchange between Wayne Martin, Jim Briles and Gary Meyer dated February 24, 2005, annexed hereto as Exh. S (App. 1213-14)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

46. Even after the routing was confirmed and in place with the proper steamship line (often referred by Global Link as an "SSL") and preferred trucker, Global Link's "split routing" scheme also required additional accounting by which Global Link

would deduct the trucking payment provided by the steamship line from the total cost charged by the preferred trucker, and then, if necessary, Global Link would arrange to pay for the difference in price. (Email exchange between Jim Briles, Chad Rosenberg, Joanne Picardi, Shayne Kemp and Gary Meyer dated March 1, 2006, annexed hereto as Exh. R (App. 1210)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

47. Global Link also kept track of those instances where the trucker delivered the shipment to a destination, lesser in distance from the booked location, by creating a "credit" or "debit" practice with its preferred truckers. As explained in the Arbitration,

When the actual destination was more distant from the port or container yard ("CY") than the destination on the ocean carrier-issued MBL, the carrier would have given the trucker an allowance for trucking from the port or CY to the MBL destination, and Global Link would pay the trucker an additional amount to compensate the trucker for driving the additional distance to the actual destination. Where the actual destination was nearer than the MBL destination to the port or CY, a situation colloquially referred to as "short-stopping," . . . **Global Link would book a credit for the "savings" realized by the trucker, having traveled a shorter distance than that for which it had received an**

allowance from the ocean carrier, and GLL would offset that "credit" again the amount ("debit") owed to a trucker when it took containers on a different shipment to a destination further than the one for which the trucker had received an allowance from the ocean carrier.

(Arbitration Partial Final Award (Exh. A) (App. 9) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

48. Global Link's illegal "split routing" practice of fictitious bookings was a commonplace occurrence. For example, Jim Briles stated:

This is what I meant yesterday when I said I did not want to be compared to other managers here . . . **perfect example of people not understanding our business—how does a group manager not understand splits . . . its ALL we do!!!!**

(Email from Jim Briles to Chad Rosenberg dated March 1, 2006, annexed hereto as Exh. R (App. 1210) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

49. It is undisputed:

. . . [T]he false routing practices were widespread and covered multiple steamship lines, Global Link customers, destination points, and motor carriers.

(Global Link Voluntary Disclosure (Exh. C) at ¶ 13 (App. 116)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

50. Global Link admitted misusing its service contracts with MOL. (Global Link Voluntary Disclosure (Exh. C) at ¶ 18 (App. 119)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

Documents and Details of Sample Split Routing Shipments:

51. In accordance with the ALJ's October 16, 2012 Procedural Order and Briefing Schedule (Exh. L at 3 (App. 1140)), MOL is submitting documentation for eight (8) sample shipments which were previously identified in its Statement in Response to August 16, 2012 Order to Submit Status Reports, annexed hereto as Exh. U (App. 1230), and the Public Version of MOL's March 5, 2012 letter to Judge Guthridge, annexed hereto as Exh. BN at 4-5 (App. 1643-44). Each representative shipment consists of the following documents:

- A. Master bill of lading;
- B. House bill of lading;
- C. screen shot of relevant HBL shipment details from the Datamyne database;
- D. copy of relevant page from applicable service contract;
- E. copy of relevant page from applicable tariff;
- F. Shipline delivery order;
- G. Truckline delivery order;
- H. Import Transportation Order Sheet a/k/a "TPO"
- I. Arrival Notice, if available;
- J. Truck accounting papers, including truck invoices and MOL payments.

RESPONSE: The Appendix speaks for itself. The Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)).

Moreover, the Presiding Judge limited this phase of the proceeding to the alleged liability of the Respondents and not to the amount of reparations claimed by MOL. (Procedural Order and Briefing Schedule (Oct. 16, 2012) at p. 3 (MOL App. 1142)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

52. These sample shipments are representative of the false and fraudulent "split routing" practices used by the Respondents in connection with the many thousands of shipments booked by Global Link with MOL.

RESPONSE: Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

53. The destination in the master bill of lading is a fictitious destination requested by Global Link. The destination in the house bill of lading issued by Global Link to its customer shows the actual destination for the shipment. This latter destination was given by Global Link to its preferred trucker and hidden from MOL.

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (*Id.*). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

54. As shown by the relevant page from the applicable service contract and/or tariff for each sample shipment, the rate to the booked destination was lower than the rate to the actual destination.

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the

grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

55. A master bill of lading is included in each sample shipment to show the (fake) place of delivery Global Link requested. The house bill of lading is included in prove that Global Link intended from the beginning to deliver the shipment to an entirely different inland destination.

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

56 The shipline and truckline delivery orders show that Global Link prepared separate transportation documents in order to perpetuate its fraudulent scheme and to keep MOL from knowing that Global Link was not delivering the shipment to the booked final destination. The shipline delivery order containing the false final

destination was sent by Global Link to MOL. The truckline delivery order containing the actual or "correct" final destination was tendered by Global Link to its "preferred" trucker.

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (*Id.*). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

57. Global Link would also prepare an arrival notice which is included with each sample shipment, with the true or "correct" final destination.

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or

relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

58. Based upon Global Link's false booking destination, MOL would in turn prepare an Import Transportation Order or "TPO" which is included with each sample shipment. MOL sent the TPO to the trucker to complete the final leg of the movement. Upon confirmation of completion of the final inland movement, MOL would then arrange payment for the trucker based upon the supposed delivery to the false booking location.

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

59. Each sample shipment is organized by master bill of lading number.

RESPONSE: The documents in the Appendix speak for themselves. Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

60. Annexed hereto as Exh. AE (App. 1429)⁴ is a spreadsheet prepared by MOL which provides details pertaining to the eight (8) sample shipments. The rate applicable to transportation of the shipment to the fictitious destination (as shown in the MOL master bill of lading) is set forth in black. The rate applicable to the

⁴ This spreadsheet and a courtesy copy of the underlying transportation documents were provided to Respondents on March 5, 2012. While Respondents objected to sampling altogether, Respondents failed to specifically object to any details related to MOL's proposed sampling contrary to the ALJ's instructions at the February 17, 2012 hearing. (Public Version of MOL's March 5, 2012 letter to Judge Guthridge, annexed hereto as Exh. BN (App. 1640)). If Respondents now object to Complainant's calculations or sample shipments, MOL will have been denied any opportunity to examine or challenge the basis of their objections. Respondents' purposeful intransigence should not now be rewarded. See *Merchant v Ruhle*, 740 F.2d 86, 89 (1st Cir. 1984) ("To countenance [a latent objection which could have and should have been raised earlier] would place a premium on agreeable acquiescence to perceivable error as a weapon of advocacy.") Having failed to raise any specific objections to MOL's proposed shipments as instructed by the ALJ, Respondents have waived their right to object now.

RESPONSE The documents in the Appendix and the previous filings of the parties speak for themselves. The Olympus Respondents restate their objection to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

transportation of the shipments to the actual destination (as shown in Global Link's house bill of lading) is set forth in red. In each instance, the rates and charges for transportation to the fictitious booked destination as per the applicable service contract are less than the rates and charges for transportation to the actual destination for the shipment.

RESPONSE: The Appendix speaks for itself. Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

61. MOL audited a total of 9,562 shipments for 2004 through 2006, involving roughly 75,000 TEUs. MOL selected these eight (8) sample shipments because they all involved delivery to the following actual destinations: Statesville, NC; Lynchburg, VA; Atlanta, GA; Colonial Heights, VA; Rocky Mount, VA and Carol Stream, IL. These actual final destinations represent a total of 1,390 shipments or approximately 15% of the total number of shipments booked by Global Link during the relevant time period. (Public Version of MOL's March 15, 2012 letter to Judge Guthridge at 6, annexed hereto as Exh. BN) (App. 1640).

RESPONSE: Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

62. MOL master bill of lading No. MOLU482974483, and associated transportation documents, is annexed hereto as Exh. W (App. 1260-77). Through Global Link's "split routing" practices, MOL was damaged in the amount of \$621.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the

Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

63. MOL master bill of lading No. MOLU449860016, and associated transportation documents, is annexed hereto as Exh. X (App. 1278-97). Through Global Link's "split routing" practices, MOL was damaged in the amount of \$390.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

64. MOL master bill of lading No. MOLU450178040, and associated transportation documents, is annexed hereto as Exh. Y (App. 1298-1321). Through Global Link's "split routing" practices, MOL was damaged in the amount of \$3,663.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

65. MOL master bill of lading No. MOLU450178063, and associated transportation documents, annexed hereto as Exh. Z (App. 1322-41). Through Global Link's "split routing" practices, MOL was damaged in the amount of \$3,648.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-

35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

66. MOL master bill of lading No. MOLU532657607, and associated transportation documents, is annexed hereto as Exh. AA (App. 1342-63). Through Global Link's "split routing" practices, MOL was damaged in the amount of \$1,840.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

67. MOL master bill of lading No. MOLU451923539, and associated transportation documents, is annexed hereto as Exh. AB (App. 1364-93). Through Global Link's "split routing" practices, MOL was damaged in the amount of \$452.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

68. MOL master bill of lading No. MOLU449742001, and associated transportation documents, is annexed hereto as Exh. AC (App. 1394-1412). Through Global Link's "split routing" practices, MOL was damaged in the amount of \$615.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices,

submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

69. MOL master bill of lading No. MOLU449742491, and associated transportation documents, is annexed hereto as Exh. AD (App. 1413-28). Through Global Link's "split routing" practices, MOL was damaged in the amount of \$1.470.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the

Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

70. Each of these representative samples illustrates booking of a fictitious final destination, and the payment to a "preferred trucker" by MOL based upon the false final destination, not the actual final destination traveled by the preferred trucker at Global Link's (secret) request. (Exhs. AE (App. 1429) and W-AD (App. 1260-1428)).

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

71. Annexed hereto as Exh. AF (App. 1430)⁵ is a second spreadsheet concerning the same eight (8) sample shipments prepared by MOL which compares (i) the

⁵ This spreadsheet was also provided to Respondents on March 5, 2012 and Respondents never objected to its contents or formulation, and chose not to propose their own alternatives for consideration by the ALJ

distance for inland transportation from the destination port to the false destination booked with MOL to (ii) the distance for inland transportation from the destination port to the actual destination traveled by Global Link's preferred trucker. (Exh. AF (App. 1430) and Public Version of MOL's March 15, 2012 letter to Judge Guthridge at 5, annexed hereto as Exh. BN (App. 1640)).

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

72. Exh. AF (App. 1430) is organized by MOL master bill of lading numbers. The columns are organized to show the routing each shipment traveled from origin load port to final destination. The columns show the load port, followed by the

RESPONSE The Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)).

discharge port. The columns then show the inland movement of the shipments from discharge port to the rail ramp, and then final leg via truck. The final distance is calculated by comparing the distance traveled from the rail head to the false final destination and the distance traveled from the rail head to the actual final destination. The difference in mileage is then multiplied by the cost per mile (based on the TPO rate) to calculate the total amount overpaid by MOL for each shipment.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference. Without prejudice to the foregoing, the Olympus Respondents object to MOL's hypothetical construction of rates paid to truckers. MOL has no right under the Shipping Act to recover for hypothetical differences in inland transportation rates. Rather, MOL must

demonstrate a difference between the rate charged and the actual tariff or service contract rate applicable to the destination in question. Rates paid to inland carriers are irrelevant to MOL's alleged damages and well beyond the scope of the Commission's jurisdiction. MOL essentially is asking the Presiding Judge to award a non-tariff rate prohibited by the same provisions of the Shipping Act that MOL attempts to assert here.

73. As shown in Exh. AF (App. 1430), the distance actually traveled by the truckers was often less than the distance they would have traveled from the ramp to the fictitious destination. As a result, in each of these sample shipments, Global Link's preferred truckers were overpaid since MOL paid the truckers for transportation to further points than to where they actually traveled.

RESPONSE: The Appendix speaks for itself. Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection

No. 3, incorporated herein by reference; Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

74. With respect to MOLU482974483, MOL overpaid for trucking by \$234.63. (Exh. AF (App. 1430)).

RESPONSE: Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference: Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

75. With respect to MOLU449860016, MOL overpaid for trucking by \$37.50. (Exh. AF (App. 1430)).

RESPONSE: Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's

knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference; Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

76. With respect to MOLU450178040, MOL overpaid for trucking by \$116.80. (Exh. AF (App. 1430)).

RESPONSE: Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the

Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference; Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

77. With respect to MOLU450178063, MOL overpaid for trucking by \$116.80. (Exh. AF (App. 1430)).

RESPONSE: Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35))). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference; Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

78. With respect to MOLU532657607, MOL overpaid for trucking by \$210.14. (Exh. AF (App. 1430)).

RESPONSE: Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference: Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

79. With respect to MOLU451923539, MOL overpaid for trucking by \$405.52. (Exh. AF (App. 1430)).

RESPONSE: Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the

Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference; Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

80. With respect to MOLU449742001, MOL overpaid for trucking by \$603.82. (Exh. AF (App. 1430)).

RESPONSE: Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference; Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

81. With respect to MOLU449742491, MOL overpaid for trucking by \$314.50. (Exh. AF (App. 1430)).

RESPONSE: Deny that MOL incurred any damage. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November 21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference; Olympus Respondents' objection in response to Proposed Finding of Fact No. 72.

82. As a result of Global Link's "split routing" scheme, MOL lost money in two (2) ways: first, it lost revenue as a result of Global Link's use of false destinations, and second, it overpaid Global Link's "preferred trucker" for inland movements that did not occur.

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing

practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference; Olympus Respondents' objection in response to Proposed Finding of Fact No. 72. MOL cannot recover double damages. MOL is authorized only to claim the difference between what it paid and what it alleges it should have paid consistent with the terms of MOL's tariff or applicable service contract.

Global Link repeatedly sought to keep "split routing" a secret from MOL:

83. In addition to the preparation and issuance of many thousands of false transportation documents, there are numerous admissions from Global Link that they sought to keep "split routing" a secret from MOL and other steamship lines.

RESPONSE: Deny. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at

(O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

84. On July 16, 2006, Eileen Cakmur, an employee of Global Link, sent an email to officers of Global Link admitting that Global Link engaged in "split routing" and actively sought to keep "split routing" a secret from steamship lines for years. (Email from Eileen Cakmur to John Williford of Global Link dated July 16, 2006, annexed hereto as Exh. Q (App. 1206)). In particular, Ms. Cakmur wrote:

GLOBAL LINK books the shipments with SSL [steamship line] to a destination where the rate is lower than the real destination; therefore, the final destination on the house bill of lading does not match with the final destination on the master bill of lading. 80% of GLOBAL LINK shipments go to a different destination than what shows on MBL. GLOBAL LINK calls these types of moves "split delivery" or "split moves." This is also explained in GLOBAL LINK's Manual Section 8 under Trucking Procurements and Management. It is also in GLOBAL LINK Silver Bullet. Let's say on MBL final destination is Tulsa, OK but it is actually going to Oklahoma City, OK. What I used to do everyday was send a delivery order where we put our preferred trucker to SSL with a made up address telling them this container was going to Tulsa, OK. SSL releases the container to GLOBAL LINK preferred trucker. I also send a delivery order to the preferred trucker with the right address which is Oklahoma City, OK in this case. Trucker takes the container to the right address. SSL gives an allowance to a trucker and most of the time GLOBAL LINK does have trucking cost. If the allowance does not cover it, trucker charges GLOBAL LINK the difference. If you see the bookings, it shows HBL destination is different than MBL destinations.

GLOBAL LINK has been practicing these illegal activities for years. If any of the SSL kn[ew] that they have been [de]fraud[ed] all these years, GLOBAL LINK will close their doors. Doing this kind of risky business,

GLOBAL LINK should re consider (sic) how to treat their employees. Every single one of them knows what kind of crime GLOBAL LINK commits every day. (emphasis added).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

85. Eileen Cakmur, who has been identified as a whistle-blower, not only admitted Global Link knew the "split routing" scheme was illegal, but confirmed Global Link had successfully prevented steamship lines from being aware of its illegal "split routing" scheme. (Email from Eileen Cakmur (Exh. Q (App. 1206)) and Transcript of Deposition of David Donnini dated April 16, 2008 ("Donnini Dep.") at page 17, line 13—page 18, line 10, annexed hereto as Exh. BS (App. 1673-74)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

86. In the early stages of its implementation of the "split routing" scheme, Global Link had to repeatedly advise, train and admonish its employees on the specific details of the scheme, in particular that the true final destination of the shipments differed from destination booked with steamship lines. (Email string between Tommy Chan, Emily So, Respondent Chad Rosenberg and Jim Briles dated May 25, 2004, annexed hereto as Exh. AH (App. 1466-68) and Email string between Respondent Rosenberg and Jim Briles dated July 12, 2005, annexed hereto as Exh. AI (App. 1473-73)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14);

(Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

87. Global Link often had to re-explain the specific steps needed to prevent ocean carriers from understanding the full nature and extent of the fraud and misrepresentations concerning Global Link's "split routing" or "mis-booking" of thousands and thousands upon shipments. (Exhs. AH (App. 1466-68) and AI (App. 1472-73)). For example, on May 25, 2004, Tommy Chan corresponded with Emily So of Global Link about confusion on exactly how "split routing" worked. (Exh. AH (App. 1466-68)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact

referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

88. In particular, Mr. Chan advised Ms. So as follows:

We understood the final destination for physical delivery, but it's not the routing decision for Loading Port's operation—which MBL destination should be arrange[d], you can see the samples [have been] relayed to you—final destination is to A, but we have to arrange the MBL destination to B for most cases. (sic) You may refer to Chad the reason for this kind of special arrangement.

(Email string between Tommy Chan, Emily So, Respondent Rosenberg and Jim Briles dated May 25, 2004 (Exh. AH) (App. 1466)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

89. The phrase "special arrangement" was Global Link's euphemism for "split routing." (Exh. AH (App. 1466)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

90. On September 20, 2005, Dee Ivy, an employee of Global Link, expressed frustration and guilt concerning Global Link's repeated misrepresentations made to steamship lines about "split routing." (Email string from Dee Ivy to her Global Link colleagues dated September 16-20, 2005, annexed hereto as Exh. AK (App. 1479)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14);

(Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

91. In particular, Ms. Ivy wrote:

Lena from Maersk just called me regarding the below 3 containers on J.W. Watson's yard. She wanted to know why they have not delivered to customer on D.O., and I told her that my customer has not gotten the O.K. to delivery to customer on D.O.

She wanted to confirm that we know we will be charged storage/demurrage/per diem for them. My reply was "yep".

I have a bunch of Maersk containers sitting on yards, and it's only a matter of time before they start questioning them all.

I don't like having to constantly lie and make up excuses as to why/where these containers are going, or not going.

I personally think we as a company need to revisit our policy on split shipments. The extra hassle/lies we have to tell is not fair to us CAMs [customer account managers], and it does not fit within our new Mission Statement.

I just had to get that off my chest.

(Email string from Dee Ivy to her Global Link colleagues dated September 16-20, 2005 (Exh. AK) (App. 1479) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

92. In order to maintain the fiction that the shipments were in fact traveling to the booked location, Global Link trained its employees to create a fake delivery address so as to avoid MOL's detection of "split routing" and allow Global Link to continue misrepresenting the final destination of its shipments. (Email from Wayne Martin to various Global Link employees dated June 24, 2005 (App. 1478), annexed hereto as Exh. AJ.

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not

know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

93. On June 24, 2005, Wayne Martin, another Global Link employee, wrote to his co-workers and described how to create a false delivery address in order to deceive MOL on the true final destination of shipments. In particular, Mr. Martin advised his team as follows:

When dispatching split moves to MOL Norfolk be sure you use and (sic) actual address for the manifested city and use our phone number.

(Email from Wayne Martin to various Global Link employees dated June 24, 2005 (Exh. AJ) (App. 1478)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted

by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

94. In other words, Mr. Martin advised his fellow Global Link employees to obtain an actual street address when booking to a false final destination with MOL, but use a Global Link telephone number so that if MOL would call about releasing the container from the ramp, a Global Link employee could intercept and ensure MOL did not find out Global Link never intended to deliver the shipment to the booked location. (Exh. AJ (App. 1478)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

95. On September 19, 2005, Jim Briles of Global Link emailed his co-worker, Gary Meyer to advise that Global Link's operations people should not meet with a steamship line's sales personnel because such meetings only served to "illustrate that [Global Link was] not routing to the correct door [destination]." (Email from Jim Briles to Gary Meyer dated October 19, 2005 at 1, annexed hereto as Exh. AL (App. 1482)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

96. Global Link continued to instruct its employees to use Google to create a fake address for the final destination on the master bill of lading. (Email dated April 3, 2006 from Wayne Martin to various Global Link employees, annexed hereto as Exh. Q (App. 1207)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Hefferman Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

97. In particular, in response to a question about how to create a fictitious destination to give to the ocean carrier when booking a "split" shipment, Mr. Martin instructed his fellow employees:

Dee

These are all very good questions.

How are you finding a real address for ea. door location?
Are you just picking from a phone book?

Answer: I Google a furniture company (in most cases) located in the city that the MSK MBL is manifested, I use our customers name and that companies address. This has been covering me when MSK queries the address as a valid address in the manifested town.

We would have to remember to use the exact same address per customer & door ea. time. Otherwise, [Maersk] will

notice we have the same deliver to company, but with different "real" addresses all the time.

(Email dated April 3, 2006 from Wayne Martin to various Global Link employees (Exh. Q) (App. 1207) (emphasis in original).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

98. On August 11, 2005, Joanne Picardi, a Global Link employee, learned that Evans Delivery could no longer be Global Link's "preferred trucker" for MOL shipments through Norfolk, VA. (Email string between Joanne Picardi, Jim Briles, Emily So and Shayne Kemp of Global Link dated August 11, 2005, annexed hereto as Exh. BR (App. 1667). In particular, MOL was contacting Global Link's preferred trucker to verify whether Global Link shipments were being delivered to destinations other than the booked location. (Exh. BR (App.

1668)). As a result of MOL's inquiries, Global Link's preferred trucker refused to perform "split routing" for fear of spoiling its on-going relationship with MOL. (Exh. BR (App. 1667)). Ms. Picardi communicated with Mr. Briles about the problem with its preferred trucker. (Exh. BR (App. 1667)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOI did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

99. On August 15, 2005, in response to questions posed by MOL, Jim Briles admonished his Global Link co-workers to do a better job concealing "split routing" so that MOL would be led to believe Global Link shipments were being delivered as originally booked. (Email from Jim Briles to Global Link staff dated August 15, 2005, annexed hereto as Exh. AM (App. 1484)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

100. In particular, Mr. Briles cautioned his team:

Attention Operators:

If anybody has a shipment on the above mentioned routing, please be informed that the MOL Norfolk office is carefully scrutinizing the final destination and will not release the dispatch to your preferred truckers if they find out that container is not going to [M]artinsville [V]a. Please check with Joanne asap for a list of truckers we can use for this trade lane. If anyone from MOL (especially Laci) contacts and/or harasses you for a correct final destination, please do not mention not routing to the correct door and simply tell them the container is going to Martinsville, VA. Please adv if you have any questions.

(Email from Jim Briles to Global Link staff dated August 15, 2005 (Exh. AM)
(App. 1484) (emphasis added).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOI. App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

101. On March 9, 2006, Jim Briles again admonished Global Link employees to prevent MOL from learning the true final destination. (Email dated March 9, 2006 from Jim Briles to GLOBAL LINK staff, annexed hereto as Exh. AN (App. 1485)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact

referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

102. In particular, Mr. Briles directed Global Link employees as follows:

Ops,

Please let me stress again, we can never tell the SSL that we [are] not delivering to the master bill of lading final destination. An operator in our office told MOL Chicago that a container routed to Fishers, IN was not going there mo[s]t times goes somewhere else and MOL Chicago decided they were over paying allowances and now all cntrs on this routing MUST be returned to Indianapolis, IN. I am working with Rebecca to get this to 10-15 F's per week (that is their export amount from Indianapolis each week). Please note that for the 10-15 cntrs a week that will have to be returned to Indianapolis wil cost us \$500-600 each (\$5K per week) This is, needless to say, very costly for GLL and inexcusable. Going forward I now will not book on MOL to Fishers and we must use Maersk to service this area.

Pls distribute to your team and pls take the time to make sure everyone understands split shipments and the importance of keeping this info private.

(Email dated March 9, 2006 from Jim Briles to GLOBAL LINK staff, annexed hereto as Exh. AN (App. 1485) (emphasis added).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

103. Mr. Briles further instructed his co-workers not to reveal that Global Link was arranging for delivery of shipments to destinations different from the MOL master bill of lading destination. (Exh. AN (App. 1485)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

104. Mr. Briles' co-workers responded positively to his instructions and admonitions, confirming that it was Global Link's formal policy to never reveal to MOL that shipments were not being delivered to the master bill of lading destination. (Email dated March 9, 2006 from Dorothy Thomas to various Global Link employees, annexed hereto as Exh. AO (App. 1486); Emails dated March 9, 2006 from Shayne Kemp to her team at Global Link and their responses thereto, annexed hereto as Exh. AP (App. 1487-92); and Email dated March 9, 2006 from Damon Amos to Jim Briles, annexed hereto as Exh. AQ (App. 1493)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

105. In particular, on March 9, 2006, Dorothy Thomas of Global Link advised Mr. Briles that her team would:

discuss on Friday morning to make sure everyone completely understand [sic] that **we do not discuss the true destination**. I am sure this [is] not anyone in our group.

(Email dated March 9, 2006 from Dorothy Thomas to various Global Link employees (Exh. AO) (App. 1486) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10): Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

106. On March 9, 2006, Ms. Shayne Kemp of Global Link also forwarded Jim Briles's email to her co-workers. In accordance with the instructions from Jim Briles, Ms. Kemp wrote to her team as follows:

Team

Please note below email regarding MOL: **this really hurts.**

Please advise that you understand not to tell the ssl where shipments are really going?

(Emails dated March 9, 2006 from Shayne Kemp to her team at Global Link and their responses thereto (Exh. AP) (App. 1487) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

107. Ms. Kemp then obtained written confirmation that everyone on her team understood they were never to reveal the true final destination to MOL. (Exh. AP (App. 1487))

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not

know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

108. Damon Amos of Global Link responded to Jim Briles's email by explaining that MOL learned that its containers were not being delivered to Fishers, Indiana because a new employee at Global Link "received a call from MOL and was caught off guard." (Email dated March 9, 2006 from Damon Amos to Jim Briles, annexed hereto as Exh. AQ (App. 1493)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

109. Mr. Amos advised that he responded to MOL's inquiries about the final destination of its containers as follows:

I emailed MOL and explained it was a miscommunication and the containers were to be delivered as booked. At no point did I ever verbally speak to MOL and I absolutely never told them, or even remotely insinuated, "a container routed to Fishers, IN was not going there mo[s]t times goes somewhere else." Also, please note Mitsui's desire to have empties returned to Indianapolis is not a consequence of their phone conversation with [a preferred trucker] since their desire preceded it. It was simply a matter of supply and demand.

(Exh. AQ (App. 1493) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

110. Global Link's standard operating procedure was to routinely deliver shipments to a destination different from that initially booked with MOL, to

consistently provide false documentation and mis-information about the final destination of these shipments, and to actively take steps to conceal the "split routing" scheme. (Exhs. AO (App. 1486), AP (App. 1487) and AQ (App. 1493)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

Global Link constantly vetted "preferred truckers" in furtherance of "split routing":

111. In order to maintain the fiction that its shipments were being delivered to MOL master bill of lading destinations, Global Link repeatedly sought out inland carriers who would be willing to serve as "preferred truckers" and help advance the "split routing" scheme. (Global Link Voluntary Disclosure (Exh. C) at ¶ 10 (App. 113-14)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

112. As explained in the Voluntary Disclosure,

. . . . It was also important for the false routing scheme that Global Link be able to designate its "preferred truckers" to be used by the ocean carriers. **This is because it was necessary to find motor carriers who would be willing to deliver the ocean containers to a different destination than the one shown on the master bill of lading and the carrier's freight release.** A February 8, 2006 email from a Global Link customer account manager to a representative of a motor carrier that was being recruited into the false routing scheme explained the process as follows:

You will be delivering to Norcross, GA where Brakes USA is located. **What I meant was we book this with P&O as if they were going to Chattanooga, TN but they are not going there. They will be delivered to Norcross, GA. P&O is not supposed to know about Norcross, GA. Please do not mention anything to them.** When you receive the work

order or freight release from them, it will show Chattanooga, TN as a delivery destination but you will be delivering to Norcross, GA. **They will be paying you as if they are going from Austell [presumably, the rail ramp location] to Chattanooga, TN. That's where you make your money. We call this "split delivery." If there was a difference in mileage, Global Link Logistics will pay the difference but in this case the mileage is way covered.** Please let me know if this does not make sense to you.

. . . . As this email notes, ocean carriers establish trucking allowances to compensate motor carriers for the drayage of containers from ports or rail ramps to final destinations. If the trucking allowance for the fictional destination would not cover the trucking move to the actual destination, Global Link would pay the motor carrier the difference. **To avoid this, which would obviously reduce Global Link's profit on these shipments, Global Link tried to find cheap destination points with high trucking allowances from the ocean carriers. . . .**

(Exh. C at ¶ 10 (citing Exh. AV) (App. 113-14) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by

reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

113. Global Link carefully vetted motor carriers before agreeing to use them as part of its "split routing" scheme against MOL because they wanted to be certain their truckers would not reveal that the shipments were not being delivered to the master bill of lading destinations. (Email from Jim Briles to Shayne Kemp dated July 27, 2005, annexed hereto as Exh. AR (App. 1494); Email exchange between Wayne Martin and Respondent Rosenberg dated January 30, 2006, annexed hereto as Exh. AS (App. 1495); Email exchange between Erin Brown and Joanne Picardi, Global Link employees, dated July 26, 2005, annexed hereto as Exh. AT (App. 1496)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

114. Global Link recruited motor carriers explaining that by not delivering shipments to the master bill of lading destinations they stood to make more money through the trucking payment offered by steamship lines. (Email dated February 8, 2006 from Eileen Cakmer of Global Link to Lorne Tritt, annexed hereto as Exh. AV (App. 1498-99)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

Respondent Chad Rosenberg was the creator, architect and promoter of the "split routing" scheme:

115. Global Link was founded by Respondent Rosenberg in 1997. (Global Link Amended Statement (Exh. AG) at ¶ 24 (App. 1438) and Arbitration Partial Final Award (Exh. A) at 5 (App. 110)).

RESPONSE: Admit. Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

116. Respondent Rosenberg was the qualifying individual listed by Global Link in the application filed with the FMC to obtain a license to operate as a non-vessel-operating common carrier. (Rosenberg Dep. (Exh. O) at page 77, line 8-16 (App. 1181)). The qualifying individual represents and warrants his understanding of applicable Commission regulations and requirements. See 46 C.F.R. § 515.11.

RESPONSE: Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35); (Verified Answer of Olympus Respondents at p. 2 (MOL App. 1503)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

117. CJR Respondents admit "split routing" involved:

provid[ing] MOL with a destination other than the ultimate destination of the cargo. CJR and Rosenberg admit that the bill of lading issued by MOL would reflect the destination provided by Global Link."

(CJR Respondents Answer (Exh. P) at 9-10, ¶ G (App. 1195-96)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or

relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

118. Respondent Rosenberg always intended for "rerouting" or "split routing" to mean having a different destination on the ocean or master bill of lading than the house bill of lading. (Rosenberg Dep. (Exh. O) at page 11, line 19—page 12, line 3 and page 12, lines 20-25 (App. 1168-69)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

119. Respondent Rosenberg designed "split routing" so that the shipment would be delivered not to the destination stated on the ocean or master bill of lading, but to the destination stated on the house bill of lading. (Rosenberg Dep. (Exh. O) at page 17, lines 9-22 (App. 1168-69)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14);

(Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).
Further responding, see General Objection Nos. 2 and 3, incorporated herein
by reference.

120. "Split routing" worked by booking a shipment through an ocean carrier's
"regional door point" which typically had the lowest cost point regardless of the
shipment's actual destination. (Rosenberg Dep. (Exh. O) at page 37, lines 14-18
(App. 1177)).

RESPONSE: Deny and refer to the full text and context of the referenced
document. Further deny that the above proposed finding of fact involves or
relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14);
(Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).
Further responding, see General Objection Nos. 2 and 3, incorporated herein
by reference.

121. Since starting Global Link, as a licensed NVOCC, Respondent Rosenberg
immediately instituted "split routing" for the majority of its shipments.
(Rosenberg Dep. (Exh. O) at page 99, line 12—page 101, line 24 (App. 1182)).

RESPONSE: Deny and refer to the full text and context of the referenced
document. Further deny that the above proposed finding of fact involves or
relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14);
(Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

122. Respondent Rosenberg was responsible for “routings” at Global Link. (Joiner Dep. (Exh. BA) at page 170, lines 11-17 (App. 1541)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

123. Until selling a majority interest in Global Link to the Olympus Respondents in 2003, Respondent Rosenberg was personally responsible for arranging the specific routings, including the selection of the false final destination on the master bill of lading. (Briles Dep. (Exh. T) at page 114, line 19—page 115, line 1 (App. 1222)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

124. After selling a majority interest in Global Link to the Olympus Respondents, Respondent Rosenberg personally trained Jim Briles on "split routing." (Briles Dep. (Exh. T) at page 53, line 3-18 (App. 1218) and page 114, line 19—page 115, line 1 (App. 1222)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

125. CJR Respondents admit that due to "split routing" the "rates paid to MOL for transportation to the location provided to MOL were lower than the rates to the actual location where the shipment was delivered . . . the location where the shipment was delivered was a point with no negotiated rate in the service contract and which Global Link did not seek to add to the contract." (CJR Respondents Answer (Exh. P) at 11-12, ¶ J (App. 1197-98)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

126. Global Link employees knew "split routing" was not commonplace in the industry and did not need an attorney to tell them the practice was illegal. Eric Joiner, a former employee of Global Link, testified as follows:

Q. . . . Chad Rosenberg was the individual at the company responsible for handling routings when you were employed by the company, correct?

With the exception of the two-week period in which Michelle Roller did it.

Q. Okay, but you didn't have any involvement in that at any time during your employment with the company, correct?

No. Absolutely not. Like I said, the way that that worked was Chad would call—and he did this from the start of business. He would call Asia at night from home because of the time differences, which is 12 hours. He would call and talk to them during their business day and from nighttime at his own house. So that activity did not take place within the office.

Q. Did you—did you at that time have any understanding as to why the company, to use your term, misrouted, when it was routing shipments?

It would have been an opportunity to try and make more money and achieve new customers. . . .

Q. Well, what do you base that testimony on? Is that what your understanding was, or is that something that Mr. Rosenberg told you?

That's my understanding.

Q. And what do you based that understanding on?

Because that's what happens when you do that.

Q. Okay. Mr. Rosenberg never told you that was the reason that it was done, correct?

I never had—no. I mean, to be honest, I didn't have to ask. I knew it.

Q. And how did you know it?

Well, after 25 years in the business or 20 years at that time, if people are going to use a bullet rate that way, that's what they would have done.

Q. Because it was a common practice in the industry, correct?

No. It was not a common practice. It was an illegal practice. It happens, okay, and there are people that have gotten FMC fines for having done that, but it's not a practice that I would say is a condoned practice that's an everyday event.

(Joiner Dep. (Exh. BA) at page 170, line 11—page 172, line 19 (App. 1541) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by

reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

127. Eric Joiner told Respondent Rosenberg that “split routing” was illegal but Mr. Rosenberg continued “split routing” as a practice because—in Mr. Rosenberg’s opinion—no one was going to turn Global Link in to the FMC. (Joiner Dep. (Exh. BA) at page 193, line 14—page 194, line 11 (App. 1542-43)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link’s routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL’s knowledge of Global Link’s routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

128. Eric Joiner testified:

Q. Did you tell Mr. Rosenberg that [split routing was illegal]?

I told Mr. Rosenberg that what was going on wasn't legal. Okay. I didn't render any legal opinions. It was like my experience is this is not something you're

allowed to do. We need to find a different way to do it. Okay. A different way to route the cargo correctly that allows us to be competitive as a company.

(Joiner Dep. (Exh. BA) at page 197, lines 2-9 (App. 1543) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

129. Respondent Rosenberg, a qualifying individual, was not aware of any written document from Global Link communicating to any of its employees the importance of maintaining compliance with all FMC rules and regulations. (Rosenberg Dep. (Exh. O) at page 294, line 18—page 295, line 2 (App. 1185-86)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14);

(Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

130. Respondents Rosenberg and Global Link failed to maintain a proper program to ensure Global Link's compliance with FMC rules and regulations. (Rosenberg Dep. (Exh. O) at page 292, line 7—page 295, line 14 (App. 1183-86)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by

reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

131. Respondent Chad Rosenberg, a qualifying individual, was the trainer-in-chief, creator and architect of the fraudulent scheme known as “split routing.” (Joiner Dep. (Exh. BA) at page 197, lines 2-9 (App. 1543); Briles Dep. (Exh. T) at page 52, line 5—page 53, line 11 (App. 1217-18) and Global Link Voluntary Disclosure (Exh. C) at ¶ 14 (“The false routing scheme was used by Global Link from its beginning in 199[7].”) (App. 116)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Hefferman Aff. at (O.R. App. 33-35)). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link’s routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL’s knowledge of Global Link’s routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

Olympus Respondents actively participated in "split routing" scheme:

132. Olympus Respondents admit they knew Global Link "engaged in a practice called 'split-routing'" (Verified Answer of Respondents Olympus Growth Fund III, L.P.; Olympus Executive Fund, L.P.; Louis J. Mischianti; L. David Cardenas and Keith Heffernan to Amended Complaint ("Olympus Respondents Answer") at ¶ 15, annexed hereto as Exh. AW (App. 1508)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further responding, see General Objection No. 3, incorporated herein by reference.

133. The Olympus Respondents were aware that Global Link engaged in "split routing" on a regular basis. (CJR Respondents Answer (Exh. P) at 9, response to ¶ F (App. 1195)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection No. 3, incorporated herein by reference.

134. Olympus Respondents purchased a majority interest in Global Link on or about April 4, 2003. (Selected Pages from Asset Purchase Agreement by and Among GLL Acquisition, Inc., GLL Holdings, Inc., Global Link Logistics, Inc. and Chad J. Rosenberg dated April 4, 2003, annexed hereto as Exh. BQ (App. 1665-66)).

RESPONSE: Admit that OEF purchased shares in the holding company of Global Link in May 2003. Further admit that OGF purchased shares in the holding company of Global Link on May 2003. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

135. After joining the new Global Link management team, Mr. Eric Joiner became aware that Global Link was routing shipments to destinations which had not been previously agreed to by the steamship lines. (Joiner Dep. (Exh. BA) at page 32, lines 13-19 (App. 1539)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

136. During the summer of 2003, someone from the new management team—either Eric Joiner or Gary Meyers—advised Respondent Heffernan that Global Link was booking containers to a different destination on the master bill of lading as compared to the house bill of lading. (Deposition of Keith Heffernan dated September 21, 2008 (“Heffernan Dep.”) at page 87, line 25—page 88, line 21

(App. 1522-23); page 89, lines 6-12 (App. 1524); and page 91, line 25—page 92, line 5, annexed hereto as Exh. AX (App. 1525)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

137. Mr. Joiner also spoke with Respondent Cardenas about the legality of transporting containers to a destination not set forth on the master bill of lading or previously agreed by the steamship line. (Joiner Dep. (Exh. BA) at page 191, lines 12-25 (App. 1542); page 193, line 23—page 194, line 9 (App. 1542-43)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

138. Mr. Joiner cautioned Respondent Cardenas that Global Link's arranging of container movements to destinations not previously agreed to by the steamship lines was illegal and presented serious regulatory issues. (Joiner Dep. (Exh. BA) at page 193, lines 8-13 and page 196, lines 6-18 (App. 1542-43)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

139. Respondent Heffernan explained that the reason this information was brought to his and Respondent Cardenas's attention was that Gary Meyers and/or Eric Joiner were getting up to speed on Global Link's business practices, and they had a question about the practice of delivering the cargo to a destination different from what was booked with the steamship line, and whether this practice was OK. (Heffernan Dep. (Exh. AX) at page 92, lines 10-18 (App. 1525)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

140. At the time of being informed of this practice in the summer of 2003, Respondents Heffernan, Cardenas and Mischianti were directors of Global Link. (Heffernan Dep. (Exh. AX) at page 95, lines 8-19 (App. 1529) and Global Link Amended Statement (Exh. AG) at ¶ 35 (App. 1442)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

141. Eric Joiner explained to Respondents Heffernan and Cardenas the nature and extent of Global Link's "split routing" scheme in extensive detail. (Heffernan Dep. (Exh. AX) at page 66, lines 13-15 (App. 1520); Joiner Dep. (Exh. BA) at page 191, lines 12-25 (App. 1542) and Transcript of Deposition of David

Cardenas dated August 6, 2008 ("Cardenas Dep.") at page 115, line 20—page 116, line 8, annexed hereto as Exh. BE (App. 1610-11)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

142. Respondent Rosenberg also explained in detail the intricacies of "split routing" to both Respondents Heffernan and Cardenas on at least one occasion in July of 2003. (Rosenberg Dep. (Exh. O) at page 32, line 16—page 33, line 10 (App. 1172-73); page 34, line 24—page 35, line 4 (App. 1174-75) and page 36, line 23—page 37, line 2 (App. 1176-77); and Heffernan Dep. (Exh. AX) at page 66, lines 13-15 (App. 1520)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

143. Mr. Joiner specifically warned Respondent Cardenas that "split routing" was illegal and that Global Link should be trained so that bookings with ocean carriers would be performed properly and in accordance with FMC rules and regulations. (Joiner Dep. (Exh. BA) at page 192, lines 4-23 (App. 1542)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

144. Mr. Joiner obtained approval from Olympus Respondents during the summer of 2003 to hire an outside lawyer, Neal Mayer, to train Global Link personnel about proper routing/booking procedures for containerized cargo. (Joiner Dep. (Exh. BA) at page 192, lines 4-23 (App. 1542)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

145. On July 15, 2003, Paul Coleman, an attorney with Hoppel, Mayer & Coleman in Washington, D.C., wrote the following legal advice to Gene Mayer, Eric Joiner and Respondent Rosenberg:

When Global Link changes the ultimate destination and does not inform the ocean carrier, which has issued a bill of lading to another destination and would have needed to issue a corrected bill of lading to the new destination and adjust the charges for the water/motor movement, there are several problems which Global Link needs to consider. First, if the cargo is damaged or lost enroute to the new destination in the motor carriage portion of the movement, Global Link would have no right to go after the ocean carrier for the loss or damage because the goods are no longer traveling under the ocean carrier's bill of lading which included motor carriage to a certain point, but instead moved under an informal arrangement with the trucker. Global Link then will have to look to the trucker whose resources may not be substantial for compensation, under uncertain terms for claims.

Second, **what occurs sometimes in these arrangements is that the cargo goes to a destination short of its original destination, and the motor carrier has collected more or a different amount from the ocean carrier than it is entitled. This is called "shortstopping",** with often the shipper receiving from the trucker part or all of the amount saved or getting a credit on a later shipment. **This is a fraud**

on the ocean carrier who has paid the trucker more than the trucker was entitled, and an illegal rebate to the shipper because any return of compensation to the shipper without being allowed by the ocean carrier's tariff or service contract is a violation of section 10(a)(1) of the Shipping Act.

Third, if as you noted in your example, the trucker sometime[s] takes the cargo to a destination beyond the original final destination and Global Link pays the trucker more money, it still may be unlawful under the Shipping Act if this allows Global Link to be charged less by the ocean carrier than it would have charged to that destination, and as we have noted before, leaves Global Link to look to the motor carrier only in case of loss or damage to cargo.

In sum, a practice of changing destinations without notice to the ocean carrier exposes Global Link to possible Shipping Act violations but just as importantly, to an uncertain claims procedure in case of loss or damage to the cargo. If the concern is that the ocean carrier will learn the identity of the beneficial cargo owner, it would be better to have the ocean carrier issue a port-to-port bill of lading to Global Link and Global Link issue an intermodal bill and arrange the trucking.

(Email string between Paul Coleman and various Global Link employees, including Respondent Rosenberg dated July 15-21, 2003, annexed hereto as Exh. BP (App. 1663) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); Cardenas Aff. (O.R. App. 8-11); Heffernan Aff. (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

146. The Olympus Respondents and CJR Respondents ignored the legal advice of outside counsel, Paul Coleman. (Olympus Respondents' Answering Statement to Global Link's Notice of Arbitration and Amended Statement of Claim dated October 29, 2007 ("Olympus Answering Statement") at 12, paras. 30, 46-51, annexed hereto as Exh. BB (App. 1556, 1562-64), and Global Link's Amended Statement of Claim dated October 17, 2007 in Arbitration ("Global Link Amended Statement") at 12, annexed hereto as Exh. AG (App. 1442)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

147. Global Link has explained the rationale of ignoring the advice of Mr. Coleman:

. . . Cardenas and other principals of Olympus Partners, presumably Heffernan and Mischianti at least, knew what Coleman wrote to [Gene] Meyers and Rosenberg in his emails of July 2003. **But, despite that knowledge and despite Coleman's warning that the FMC had fined others for Rosenberg's longstanding "practice of diverting cargo to [destinations] other than what's on the original [ocean bill of lading]," the directors of Olympus Partners placed on the Boards of Global Link 2003 and Holdings 2003, including Mischianti, Cardenas and Heffernan (who was licensed as a CPA), permitted Rosenberg to continue it.** Apparently, they agreed with Rosenberg that the "real-life risks" of that longstanding "practice" were not likely enough or severe enough to derail their plans to use their capital to expand Rosenberg's freight-forwarding business and then cash in by selling GLL Holdings 2003 and its subsidiaries to an unwitting buyer.

(Global Link Amended Statement (Exh. AG) at ¶ 35 (App. 1442)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

148. Global Link further revealed:

The purpose of these material misrepresentations was obtaining transportation of container from ports in Asia to destinations in the United States at rates that were less than those the ocean carriers would have rightfully charged under their contracts and tariffs if . . . **officers of Global Link 2003** had not concealed the true destinations for those shipments. . . .

(Global Link Amended Statement (Exh. AG) at ¶ 43 (App. 1446) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

149. Respondents Heffernan and Cardenas understood that "split routing" avoided the necessity of re-negotiating door points with steamship lines, thereby exposing Global Link to higher landed costs on a per shipment basis. (Rosenberg Dep. (Exh. O) at page 49, line 1—page 50, line 1 (App. 1179-80) and page 35, line 5—page 36, line 22 (App. 1175-76)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

150. Respondents Heffernan and Cardenas also knew that "split routing" could have been eliminated by having Global Link book its shipments to the container yard or rail ramp, rather than a door point. (Rosenberg Dep. (Exh. O) at page 35, lines 15—page 36, line 22 (App. 1175-76)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

151. Olympus Respondents took no action to terminate or modify Global Link's "split routing" following receipt of Mr. Coleman's advice that such practices were illegal and violated the Shipping Act. (Heffernan Dep. (Exh. AX) at page 163, lines 15-25 (App. 1530); Email string between Paul Coleman, Respondent Chad Rosenberg and Gene Mayer dated July 16, 2003, annexed hereto as Exh. BC (App. 1585-88)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that Olympus Respondents had any obligation or duty to terminate or modify Global Link's routing practices.

152. Although they were shareholders, officers and/or directors of Global Link, Olympus Respondents and CJR Respondents neither ensured that the activities of their company—Global Link—conformed to the Shipping Act nor assigned someone the task of compelling Global Link's compliance with its duties and obligations under the Shipping Act. (Heffernan Dep. (Exh. AX) at page 171, line 18—page 174, line 2 (App. 1531-33a); Cardenas Dep. (Exh. BE) at page 52, line 17—page 53, line 13 (App. 1605-06); page 157, line 12—page 158, line 8 (App. 1615-16); page 162, line 17—page 163, line 6 (App. 1617-18); page 166, lines 2-10 (App. 1619)).

RESPONSE: Deny. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the Olympus Respondents had any obligation or duty to ensure or otherwise monitor Global Link's compliance with the Shipping Act. The Olympus Respondents are not marine terminal operators, ocean common carriers, ocean transportation intermediaries or otherwise entities or individuals licensed, regulated by or subject to the jurisdiction of the Commission. (Order in 08-07 at p. 10 (O.R. App. 24); Verified Answer of Olympus Respondents at p. 2 (MOL App. 1503)).

153. Olympus Respondents and CJR Respondents benefitted directly from Global Link's "split routing" scheme. (Global Link's Voluntary Disclosure (Exh. C) at ¶ 14 ("The misrouted shipments actually increased in 2005, the time during

which [Olympus and CJR Respondents] were preparing to sell [Global Link]. Increasing the profits from false routings, of course, would increase the value of the company to prospective bidders.”) (App. 116) and Cardenas Dep. (Exh. BE) at page 78, line 25—page 80, line 20 (App. 1607-09)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further responding, see General Objection No. 3, incorporated herein by reference.

154. The Olympus Respondents deliberately engaged in the fraudulent practice of split routing in order to inflate profits and defraud the buyers of Global Link. (Transcript of Deposition of Constantine Mihos dated July 11, 2008 (“Mihos Dep.”) at page 202, lines 5-15, annexed hereto as Exh. BT (App. 1684)).

RESPONSE: Deny and refer to the full text and context of the referenced document. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

155. In particular, Mr. Mihos, a board member of the new owners of Global Link, testified as follows:

Q. You understand that the former owners and management of Global Link understood rerouting to be legal and common in the industry?

MR. BUSHOFSKY: Object to the form.

No. My understanding is that the former management and owners of the company were deliberately breaking the law in order to inflate profits and defraud us out of \$128 million.

(Mihos Dep. (Exh. BT) at page 202, lines 5-15 (App. 1684)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

156. The Olympus Respondents instructed their employees at Global Link not to discuss routing with potential buyers because they did not want anyone outside the company to understand that "split routing," an illegal practice, was essential to Global Link's profitability. (Arbitration Partial Final Award (Exh. A) (App. 23-27) and Transcript of Deposition of Eugene Winters dated July 22, 2008 ("Winters Dep.") at page 62, line 21—page 63, line 11 (App. 1598) and page 63, line 22—page 66, page 16, annexed hereto as Exh. BD (App. 1598-99)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10);

Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

157. The Partial Final Award in the arbitration concluded as follows with regard to the conduct of the Olympus Respondents and CJR Respondents on split routing:

a deliberate effort was made to keep [the buyers of Global Link] from learning of the existence, extent and significance of the split-routing practice during the due diligence process, and (ii) during the due diligence process questions were asked by representatives of [the buyers of Global Link] to which accurate and complete answers would have included disclosure and a description of split routing and its contribution to Global Link's profitability. We turn to a discussion of the evidence underlying those conclusions.

During preparation of the Confidential Information Memorandum, Keith Heffernan, who was responsible for gathering and passing along to Harris Williams comments from Olympus Partners and Global Link management on the most recent draft, deleted a reference to "highly efficient routing." Inserted in place of that phrase was the following comment explaining the deletion:

"I don't think we should get too deep into routing. I don't think we want too much diligence around this, and we don't want to give away too much either. I would stick to high-skilled contract negotiations."

* *

The motivation to conceal Global Link's reliance on split-routing is not difficult to identify. The Olympus Respondents were eager to turn a profit on their three-year-old investment in Global Link by reselling the Company. Chad Rosenberg, having sold an 80% interest in the Company for \$20 million three years earlier, stood to reap another \$20 million by

selling his remaining 20% interest, and Company management was willing, if not eager, to assist the process, for certain members of management stood to benefit personally and substantially from a sale. **Disclosure of split-routing would almost certainly have generated questions about legality, business prudence and/or sustainability of the practice, and responding to those questions by [the buyers of Global Link]'s satisfaction might well have delayed (and conceivably might have scuttled) the transaction or altered its terms to the [Olympus and CJR Respondents]'s and management's detriment.**

(Arbitration Partial Final Award (Exh. A) (App. 23-27) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection No. 3, incorporated herein by reference.

"Split routing" increased Global Link's revenue at the expense of MOL and other Steamship Lines:

158. Global Link engaged in "split routing" in order to make more money at the expense of MOL and other ocean carriers. (Ivy Dep. (Exh. V) at page 27, lines 4-6 (App. 1252)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

159. Global Link engaged in "split routing" not because it made operations more efficient or avoided administrative tasks, but because it was highly profitable. Indeed, as stated by David Donnini, a principal of the new owners of Global Link, "split routing" was central to the company's "financial viability." (Donnini Dep. (Exh. BS) at page 63, line 3—page 65, line 2 (App. 1675-77)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

160. The Arbitration Partial Final Award confirmed that Global Link's costs per container were significantly reduced as a result of "split routing" and estimated that Global Link's gross earnings improved roughly between \$5.9

million and \$9.7 million for a single calendar year ending on May 31, 2006.
(Exh. A (App. 21-22)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

161. The Arbitration Partial Final Award confirmed that Global Link's purpose in engaging in "split routing" was "[t]o lower its costs and thereby increase its profits where competitive and attractive ocean carrier rates were not available to a particular destination. . . ." (Exh. A (App. 8)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

162. Global Link acknowledged that "split routing" resulted in a lower landed cost which resulted, in turn, in higher profit margins. (Briles Dep. (Exh. T) at

page 80, lines 3-6 ("Q. . . . Do lower landed costs support higher margins? A. Sure.") (App. 1220)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

163. Global Link admitted:

The purpose of these material misrepresentations was obtaining transportation of container from ports in Asia to destinations in the United States at rates that were less than those the ocean carriers would have rightfully charged under their contracts and tariffs if . . . Rosenberg . . . had not concealed the true destinations for those shipments. . . .

(Exh. AG at 16, ¶ 43 (Global Link's Amended Statement of Claim dated October 17, 2007 in Arbitration) (App. 1446) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that

MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

Respondents' concealment of "split routing" precluded MOL's prior knowledge of the scheme:

164. As demonstrated by the eight sample shipments, "split routing" was a labor intensive system consisting of many individual components. (Exhs. W-AD (eight sample shipments) (App. 1260-1428)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further deny that the referenced documents demonstrate that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference). Further, the Olympus Respondents object to the "sample" shipments on the grounds set forth in the Olympus Respondents' November

21, 2012 statement to the Presiding Judge. (Olympus Respondents' Statement to the Presiding Judge (O.R. App. 1-7)). Further responding, see General Objection No. 3, incorporated herein by reference.

165. Global Link's own employees did not like carrying out the "split routing" scheme because it required them to create additional documents and to be extra careful in the manner in which they drafted these documents. In other words, maintenance of "split routing" created additional work. (Ivy Dep. (Exh. V) at page 23, line 21—page 24, line 24 (App. 1251)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

166. In particular, Dee Ivy of Global Link testified as follows:

Q. When did [Shayne Kemp] tell you about splits when she first told you about them?

Well, she basically explained to me that the way Global Link routes their containers, that what a split shipment meant was we routed the container to, say, Chicago with the steamship line, but the customer that it was delivered to is actually in Indiana.

So we would have to prepare one delivery order to the carrier showing the Chicago final destination and prepare a second delivery order to whatever trucker we were using showing

the Indiana final destination, and that the reason we did these types of split shipments was because the company made more money doing it this way.

She also expressed that it's always a hassle, which it was, to do the split shipments, because, one, it created double work for the CAMs [customer account managers] because we had to prepare two delivery orders, and the truckers would always call, and if you forgot and sent the wrong delivery order to the wrong person, then you'd have to your. "Oh, yeah, you're right, I meant to send you Chicago instead of Indiana," that type of thing. So all the CAMs, when I started, it was pet peeve of all of the CAMs that we were doing split shipments.

But again, it was explained to me that we routed that way because we made more money routing that way.

* *

Q. When you say it's not right, do you mean ethically, legally, morally?

Ethically.

Q. Ethically?

At the least, yes.

Q. Did it make you uncomfortable?

Yes, at the point where the truckers are calling, or the steamship line, if we put the wrong zip code or the wrong address, the steamship line will call and question. **That's where I started to get uncomfortable, because the CAMs were put in a position where we were forced to lie to the steamship line by telling them the container was going somewhere that it wasn't.**

(Ivy Dep. (Exh V) at page 21, line 3—page 24, line 24 (App. 1250-51) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

167. As demonstrated by the various admissions by Global Link and its employees, "split routing" required constant pruning and cultivation to: (i) book to false or fictitious destinations with favorable freight rates; (ii) accurately draft and issue duplicate transportation documents—with slight differences in addresses, telephone numbers—in order avoid suspicion from steamship lines, like MOL; (iii) properly juggle inquiries from both truckers and ocean carriers as to the "correct" false and actual final destinations; and (iv) calculate the proper trucking costs in comparison to the ocean carrier's trucker payment which was based upon the booked destination. (Global Link Voluntary Disclosure (Exh. C) (App. 109-20)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOI did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOI App. 10); Proposed Findings of Fact referencing MOI's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

168. Global Link's efforts in maintaining the "split routing" scheme were extraordinary and extensive. (Global Link Voluntary Disclosure (Exh. C) (App. 109-20)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOI did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOI App. 10); Proposed Findings of

Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

169. Global Link would not have concealed "split routing" from MOL if MOL had understood, condoned or participated the scheme. (Rosenberg Dep. (Exh. O) at page 17, lines 13-22 (App. 1170)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

170. "Split routing," as implemented by Global Link, did not benefit MOL. To the contrary, the scheme caused MOL to incur substantial monetary damages.

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or

relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

Global Link continued to defraud MOL and other ocean carriers after discovery of the illegal "split routing" practice:

171. Although the new owners of Global Link were advised by Eileen Cakmur on July 16, 2006—shortly after closing—that Global Link regularly engaged in illegal "split routing" (Exh. Q (App. 1206)), Global Link continued to engage in "split routing" for almost an entire year until May of 2007. (Arbitration Partial Final Award (Exh. A) (App. 14-15)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

172. Global Link did not immediately cease the illegal "split routing" practice because of the negative financial impact to the company. (Donnini Dep. (Exh. BS) at page 64, line 17—page 65, line 2 (App. 1676-77) and Transcript of Deposition of John Rocheleau dated July 16, 2008 ("Rocheleau Dep.") at page 240, line 21—page 241, line 14, annexed hereto as Exh. BU (App. 1692-93)).

RESPONSE: Deny and refer to the full text and context of the referenced documents. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

173. Global Link determined the illegal practice of "split routing" was too lucrative to stop immediately without ceasing to do business as an on-going concern. (Mihas Dep. (Exh. BT) at page 38, line 22—page 39, line 23 (App. 1681-82). See ¶ 160, *supra* (Global Link's gross earnings improved by \$5.9 to \$9.7 million in one calendar year due to split routing).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

174. In particular, Mr. Mihas—a board member of Global Link's new owners—testified as follows:

Q. Sir, why did the board not instruct management to stop this illegal practice immediately?

A. The practice was complex and required time to evaluate just how we were going to unwind all of the illegal practices. It was not something that could be practicably or responsibly eliminated the next day.

Q. Do you have any understanding of how it was complex?

Not specifically.

Q. Do you have a general understanding of how it was complex?

Yes.

Q. Can you give us -- can you explain that understanding?

A. **There are thousands of containers that are shipped on a weekly basis and they go to a lot of different destinations and are on many different carriers, and the illegal practices were interwoven throughout numerous carriers, numerous destinations, numerous trucking firms, and the practice was rampant in the organization and trying to eliminate it in one fell swoop was complex without effectively turning the lights off on the company the next day.**

(Mihas Dep. (Exh. B1) at page 38, line 22—page 39, line 23 (App. 1681-82)

(emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference.

175. While Global Link continued to engage in "split routing", Global Link was aware that it continued to defraud ocean carriers. (Mihas Dep. (Exh. BT) at page 43, lines 10-25 (App. 1683)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

176. In particular, Mr. Mihas testified as follows:

Q. Mr. Mihas, you testified a little bit ago that you believed the practice of split routing defrauded ocean carriers, correct?

Correct.

Q. All right. And split routing, as GLL continued to practice it after the board learned of the practice, also defrauded ocean carriers, didn't it?

For some period of time while we were getting out of the practice.

Q. Until you stopped split routing entirely, GLL continued to defraud ocean carriers?

A. For the period of time that we were getting ourselves out of it, yes.

(Mihas Dep. (Exh. BT) at page 43, lines 10-25 (App. 1683) (emphasis added)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

177. Global Link continued to engage in "split routing" even though "split routing" constituted "lying" to ocean carriers or perpetrating a "fraud" upon ocean carriers. (Rocheleau Dep. (Exh. BU) at page 240, lines 9-19 (App. 1692).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

178. While Global Link continued to engage in "split routing," Global Link knew it was causing damages to ocean carriers. (Mihas Dep. (Exh. BT) at page 323, line 21—page 324, line 18 (App. 1686-87)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

179. In particular, Mr. Mihas testified as follows:

Q. Why -- if the ocean carrier believes they've been defrauded by Global Link, they have a claim against Global Link. Now, they can approach Global Link and say, You owe us this amount of money. Now, you can come back to them and say, We don't have any money, you know, go jump in the lake. But the ocean carriers haven't done that, have they?

MR. BUSHOFSKY: Object to the form.

A. As far as I know they haven't yet. I wouldn't be surprised if they did.

Q. They haven't done so because they haven't been damaged by the practice at all?

MR. BUSHOFSKY: Object to the form. I think he answered that question already.

A. I think it's pretty clear they've been damaged by the practice. If we had told them the appropriate destinations, we clearly would have paid them more. So I think there are millions and millions of dollars of damages they've suffered for many years.

(Mihas Dep. (Exh. BT) at at page 323, line 21—page 324, line 18 (App. 1686-87)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)). Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

180. Having continued to engage in "split routing," Global Link understood ocean carriers may elect to pursue recovery of its damages from Global Link. (Rocheleau Dep. (Exh. BU) at page 262, line 7—page 263, line 22 ("And in the end, I think the [ocean] carriers will be happy that we stopped this practice because now they are making the money that they weren't making before [due to split routing]. If they want to come after [Global Link] for damages, they can do that.") (App. 1693-93a)).

RESPONSE: Deny and refer to the full text and context of the referenced document. Further deny that the above proposed finding of fact involves or relates to the Olympus Respondents. (Mischianti Aff. (O.R. App. 12-14); (Cardenas Aff. (O.R. App. 8-11); (Heffernan Aff. at (O.R. App. 33-35)).

Further responding, see General Objection Nos. 2 and 3, incorporated herein by reference. Further deny that the referenced document demonstrates that MOL did not know of, encourage and participate in Global Link's routing practices. (Partial Final Award at p. 10 (MOL App. 10); Proposed Findings of Fact referencing MOL's knowledge of Global Link's routing practices, submitted by Global Link and CJR Respondents and expressly incorporated herein by reference).

Dated: March 1, 2013

Respectfully submitted,

Lewis R. Clayton
Andrew G. Gordon
PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: 212-373-3543
Facsimile: 212-492-0543



Warren L. Dean, Jr.
C. Jonathan Benner
Harvey A. Levin
Kathleen E. Kraft
THOMPSON COBURN LLP
1909 K Street, N.W., Suite 600
Washington, D.C. 20006
Telephone: 202-585-6900
Facsimile: 202-585-6969

Attorneys for Respondents Olympus
Growth Fund III, L.P., Olympus
Executive Fund, L.P., Louis J.
Mischianti, David Cardenas and Keith
Heffernan

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2013, I served the foregoing document on the following individual(s) by electronic mail and regular mail:

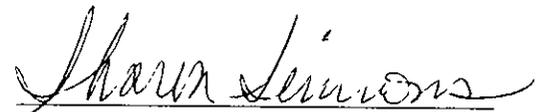
Marc J. Fink
David Y. Loh
COZEN O'CONNOR
45 Broadway Atrium, Suite 1600
New York, NY 10006-3792
Email: mfink@cozen.com
dloh@cozen.com
Attorneys for Mitsui O.S.K. Lines

David Street
Brendan Collins
GKG Law, PC
1054 31st Street, Suite 200
Washington, DC 20007
Email: dstreet@gkglaw.com
bcollins@gkglaw.com
Attorneys for Global Link Logistics, Inc.

Carlos Rodriguez
Zheng Xie
Husch Blackwell
750 17th Street, NW
Suite 900
Washington, D.C. 20006
Email: carlos.rodriguez@huschblackwell.com
zheng.xie@huschblackwell.com

Ronald N. Cobert
Andrew M. Danas
Grove, Jaskiewicz and Cobert LLP
1101 17th Street, N.W., Suite 609
Washington, D.C. 20036
Email: rcobert@gjacobert.com
adanas@gjacobert.com

Benjamin I. Fink
Neal F. Weinrich
Berman Fink Van Horn PC
3423 Piedmont Rd., NE, Suite 200
Atlanta, GA 30305
Email: bfink@bfvlaw.com
nweinrich@bfvlaw.com
*Attorneys for CJR World Enterprises, Inc and
Chad Rosenberg*


Sharon Simmons