

**FEDERAL MARITIME COMMISSION**

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**DOCKET NO. 12 - 01**

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**OC INTERNATIONAL FREIGHT, INC.,  
OMJ INTERNATIONAL FREIGHT, INC.  
AND OMAR COLLADO**

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**BUREAU OF ENFORCEMENT'S  
REPLY BRIEF**

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**I. Introduction**

The Bureau of Enforcement's (BOE) Opening Brief was submitted on October 12, 2012, with proposed findings of fact and appendix (including two affidavits). Respondents' Brief was filed on November 21, 2012, without proposed findings of fact or appendix. Respondents have admitted BOE's Request for Admissions, which are incorporated in BOE's proposed findings of fact. Respondents have submitted no evidence either in support of their case or to refute the evidence presented by BOE. Accordingly, Respondents' Brief contains only unattested, undocumented and self serving assertions that any violations were not knowingly and willfully committed, notwithstanding their prior admissions; that Respondents have minimal ability to pay; and that Respondents should be granted a license notwithstanding the uncontroverted evidence against them.

Under the circumstances, BOE's Reply Brief will be to the point. There are but few statements proffered by the Respondents which warrant clarification due to their inaccurate or

misleading nature. Attached hereto for purposes of rebuttal, are the affidavits of Andrew Margolis and Karen V. Gregory, both of which evidence complaints made to the FMC regarding the Respondents' unlawful activities.

## **II. Discussion**

### **1. Respondents' claim:**

*No complaints were ever given to the FMC regarding OMJ or Mr. Collado during the time of [OMJ's] licensure. Respondents' Br. at 4.*

### **BOE's rebuttal:**

Pursuant to the affidavit of FMC Area Representative Margolis, the initial investigation of OMJ International Freight, Inc. (OMJ) and Mr. Collado was commenced based on the complaints of an industry stakeholder. See attach. 1. In December 2008, this stakeholder alleged that the OMJ International Freight, Inc. (OMJ) was providing unlicensed and unbonded service between the U.S. and the Bahamas. It was further alleged that OMJ was acting as an agent for an unlicensed and unbonded NVOCC in the Bahamas, and was utilizing Crowley and Seaboard Marine as ocean common carriers for more than twenty-five percent of the outgoing U.S. cargo to the Bahamas. The investigation conducted by AR Margolis substantiated the allegations.

Second, as evidenced by the affidavit of Karen Gregory, a second complaint by an industry stakeholder was received by the FMC on April 4, 2012. See attach. 2. This complainant alleged that OC International Freight, Inc. (OC) was doing business as an unlicensed and unbonded freight forwarder and NVOCC and was shipping consolidated cargo with Crowley on a weekly basis. The complainant further alleged that OC was “. . . causing a lot of harm” by losing cargo, lying, damaging cargo, and not filing any type of SED for any of the

cargo. See Attach. 2.

These two stakeholder complaints, described and documented in the attached affidavits specifically refute Mr. Collado's unsupported claim that the FMC never received complaints regarding the activities of OMJ, OC and Mr. Collado. To the extent that Respondents conflate a lack of complaints as intimating the absence of harm stemming from Respondents' unlawful activity, BOE's attachments to this Reply Brief prove the contrary.

2. Respondents' claim:

*The Respondents did not "knowingly and willfully" allow persons to obtain ocean transportation at less than the rates and charges that would otherwise be applicable through the device of permitting such persons to unlawfully access OMJ's service contracts. Respondents Br. at 5.*

BOE's rebuttal:

Respondents argue that their unlawful acts were not committed knowingly and willfully. The record demonstrates otherwise. BOE's Proposed Findings of Fact 20 and 21 are based upon corresponding Requests for Admissions numbers 42 and 43, which have never been denied and are therefore conclusively established under 46 C.F.R. § 502.207. OMJ had knowledge of, and directly assisted Island Cargo to gain access to the rates and terms of Seaboard's Service Contract No. 2008-00682. OMJ knew, and had reason to know, that Island Cargo's access to Seaboard Service Contract No. 2008-00682 was unlawful under the Shipping Act of 1984. Opening Brief at 10; citing appendix page number 165 and RFA No. 42 and 43. The same holds true for the Respondents' involvement with both the Seaboard and the Crowley service contracts. PFFs 34-35, 44-45, 50-51, 74-77 and 98-100.

Beyond these admissions of knowing and willful violations, Respondents willfully neglect their responsibilities as a regulated entity. Despite their claim of good faith ignorance, it is well settled that Mr.

Collado and OMJ, as a previously licensed NVOCC, were obligated to educate themselves as to the requirements of the Shipping Act, and their failure to do so amounts to acting knowingly and willfully within the meaning of the statute. *Stallion Cargo, Inc. - Possible Violations of Sections 10(a)(1) and 10 (b) (1) of the Shipping Act of 1984*, 29 S.R.R. 665, 683-84 (FMC 2001).

3. Respondents' claim:

*Respondent has provided the Bureau with adequate financial discovery in which unquestionably the Respondent can only sustain a minimal or nominal penalty...."*  
Respondents Br. at 6.

BOE's rebuttal:

Respondents provided both personal and corporate tax returns as well as bank statements for the pertinent time periods. However, as demonstrated in the affidavit of James F. Carey and the deposition of Mr. Collado, those financial records evidence a pattern of commingling between personal and corporate accounts. Opening Brief at 44-45; Carey Affidavit at 4-5. Such commingling wholly undermines the reliability of the records, and arguably provides evidence of criminal tax evasion.

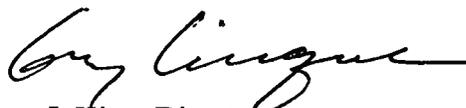
Respondents have offered no reliable evidence to rebut BOE's evidence addressing ability to pay a civil penalty. Further, Respondents have failed to address any of the other factors considered in determining the amount of a civil penalty.

### III. Conclusion

The record as provided by BOE's opening brief and appendix (including Respondents' Admissions) establishes Shipping Act violations and a history of deceitful conduct engaged in by Mr. Collado on his license application and elsewhere. Respondents have offered baseless claims – without any evidence – in an unavailing attempt to support their case.

BOE respectfully requests that the ALJ: (1) affirm BCL's denial of the license application of Mr. Omar Collado and OC International, Inc.; (2) assess a total civil penalty in an amount no less than \$500,000.00, against Mr. Collado, OMJ and OC, jointly and severally, for violating sections 10(a) of the Shipping Act, 46 U.S.C. §§ 41102, on at least 13 occasions; and for knowingly and willfully violating Section 19 (a) and (b), 46 U.S.C. § 40901 and 46 U.S.C. §40902, on at least 15 occasions; and (3) issue orders requiring Mr. Omar Collado, OMJ and OC, jointly and severally, to cease and desist from violating 19 of the Shipping Act by operating as ocean transportation intermediaries, absent first obtaining from the FMC an OTI license and filing evidence of financial responsibility.

Respectfully submitted,



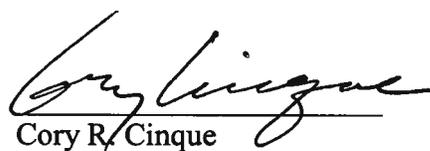
Peter J. King, Director  
Brian Troiano, Deputy Director  
Cory R. Cinque, Trial Attorney  
Bureau of Enforcement  
Federal Maritime Commission  
800 North Capitol St., N.W.  
Washington, DC 20573  
(202) 523-5783

December 11, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of December, 2012, the foregoing Bureau of Enforcement's Reply Brief has been served upon the Respondents by electronic mail.

Signed in Washington D.C. on December 11, 2012.

  
Cory R. Cinque

# Attachment 1

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**SUPPLEMENTAL AFFIDAVIT OF  
ANDREW MARGOLIS**

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1. My name is Andrew Margolis and my office address is P.O. Box 813609, Hollywood, FL 33081-3609. I hereby incorporate the description of my background, experience and duties as set forth in my initial affidavit. I have personal knowledge of the facts stated herein and am authorized to provide this statement in this proceeding.
2. On December 10, 2008 I received the attached e-mail from George Quadrino, Deputy Director of the Bureau of Enforcement. Attach 1. The e-mail sets forth allegations regarding the activities of OMJ International Freight, Inc. (OMJ), then located at 8423 N. 68<sup>th</sup> Street, Miami, FL 331666.
3. The e-mail refers allegations of unlawful conduct for the purpose of conducting further investigation. In particular, the e-mail conveys a party's complaint alleging that OMJ was unlawfully acting as an agent for an unlicensed and unbonded NVOCC in the

Bahamas, and was utilizing Crowley and Seaboard Marine as ocean common carriers for more than twenty-five percent of the outgoing U.S. cargo to the Bahamas.

4. This e-mail caused me to initiate an investigation into the activities of Mr. Collado and OMJ. That investigation resulted in my determination that Mr. Collado, OMJ and OC were operating in violation of the Shipping Act, as described more fully in my initial Affidavit. As the complaining party requested confidentiality, I have redacted the identity of the investigative source.

I declare, under penalty of perjury, that the foregoing statements are true and correct.



Andrew Margolis

Executed this 10<sup>th</sup> day of December, 2012.

## Andrew Margolis

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**From:** George A. Quadriano  
**Sent:** Wednesday, December 10, 2008 4:40 PM  
**To:** Andrew Margolis; Eric O. Mintz  
**Subject:** Nassau NVO

Good Afternoon,

[REDACTED], who wishes to remain anonymous, indicates that an unlicensed, unbanded NVOCC in the Bahamas and its unlicensed, unbanded agent in the U.S. have captured more than 25% of U.S. outgoing cargo to the Bahamas and threatening to carry much more. The company in Nassau is

Wayde Wallace  
Island Cargo Bahamas  
Soldier Road  
Nassau  
242-393-0150  
242-357-9597

The U.S. company is OMJ International Freifgt, Inc.  
8423 N. 68<sup>th</sup> Street  
Miami, FL33166

Carriers providing service are said to Crowley and Seaboard

Doretha is reviewing her sources here. Have you heard anything of this?

We will miss you at Holiday Party tomorrow.

George

# Attachment 2

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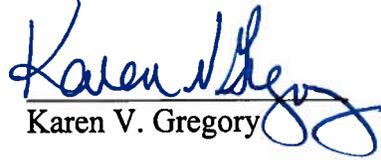
**AFFIDAVIT OF KAREN V. GREGORY**

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1. My name is Karen V. Gregory, and my office address is 800 North Capitol Street, Washington, DC, 20573. I am the Secretary of the Federal Maritime Commission, having held this position since September 2008. In my capacity as Secretary, I am responsible for receiving and processing a variety of documents filed by the public, including formal and informal complaints involving alleged violations of the shipping statutes.
2. On April 4, 2012, I received the attached e-mail from a stakeholder in the Shipping Industry. (Attached). The e-mail sets forth allegations regarding the activities of OC International Freight, Inc. (OC), located at 4458 NW 74<sup>th</sup> Avenue, Miami, FL 33166.
3. The e-mail conveys an industry stakeholder's complaint alleging that OC was doing business as an unlicensed and unbonded freight forwarder and NVOCC and was shipping consolidated cargo with Crowley on a weekly basis. The stakeholder further alleged that OC was "causing a lot of harm" through activities which included losing cargo, lying, damaging cargo, and not filing shipper export declarations.

4. As the complaining party requested confidentiality, I have redacted the identity of the source of the e-mail.

I declare, under penalty of perjury, that the foregoing statements are true and correct.

  
Karen V. Gregory

Executed this 11 day of December, 2012.

**Karen Gregory**

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**From:** [REDACTED]  
**Sent:** Wednesday, April 04, 2012 4:35 PM  
**To:** Magdalene Grant  
**Cc:** Cory R. Cinque; Peter King; Karen Gregory; Rachel Dickon  
**Subject:** Issue with OC International Freight

To whom it may concern:

This email is intended to ALERT you of a company doing business as a freight forwarder and NVOCC which is not licensed and not able to perform these functions.

the company information is as followed:

**OC international Freight**  
**Owner: Omar Collado**  
**4458 NW 74th Avenue**  
**Miami, FL 33166**  
**tel: 786-355-1533**  
**Email: ocintlfreight@gmail.com**

This company maintains to do business posing as a NVOCC, without a bond or insurance of any kind. They ship with crowley weekly consolidated service to Nassau, Bahamas.

I urge you to enforce this company because they are causing a lot of harm to the shipping environment by losing cargo, lying, damaging cargo, and not filing any type of SED for any of the cargo. I have already alerted the department of commerce and US Customs.

Thank you for your time,