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BEFORE THE
FEDERAL MARITIME COMMISSION

2013 APR 12 PM 3:21

Docket No. 13-04

OFFICE OF THE SECRETARY
FEDERAL MARITIME COMM

STREAK PRODUCTS, INC.,

COMPLAINANT,

v.

UTi, UNITED STATES, INC.,

RESPONDENT.



VERIFIED COMPLAINT

I. Complainant

A. Complainant, Streak Products, Inc. ("Streak"), is a Delaware Corporation, with its primary place of business at 7891 West Flagler Street, #234, Miami, FL 33144.

B. Streak is a manufacturer of computer storage devices.

II. Respondent

A. Respondent, UTi, United States, Inc. ("UTi") is a non-vessel operating common carrier (NVOCC) with its primary place of business at 100 Oceangate, Suite 1500, Long Beach, California, 90802.

B. UTi is an FMC licensed NVOCC (License No. 001792).

III. Jurisdiction

This Complaint is being filed pursuant to Section 11(a) of the Shipping Act, 46 U.S.C. § 41301. Streak is seeking reparations for injuries caused to it by UTi as result of its violation of 46 U.S.C. §§ 41104(2), 41104(4) and 40501. As more particularly alleged below, the Respondent provided service in the liner trade that is not in accordance with rates, charges,

classifications, rules, and practices contained in a tariff published with the Commission. The Respondent also engaged in an unfair and unjust discriminatory practice in the matter of rates or charges by charging the Complainant rates higher than that charged other shippers. Finally, the Respondents failed to keep open to public inspection in its tariff system, tariffs showing all its rates, charges, classifications, rules and practices between all points or ports on its own route and on any through transportation route that has been established.

IV. Statement of Facts

A. UTi has been providing transportation services for Streak since at least 2003.

B. Some of the transportation services provided by UTi for Streak involved full container loads (FCL) shipments.

C. Some of the transportation services provided by UTi involved less than container load (LCL) shipments.

D. Due to concerns about the rates it was being charged for transportation services provided by UTi, Streak retained an expert to engage in a review of the freight invoices paid to UTi by Streak during the period from 2009 through 2011. That review revealed that UTi issued invoices to Streak for FCL shipments in excess of the amounts set forth in UTi's tariff. The amount Streak was overcharged, and the amount it overpaid, for FCL shipments was in excess of \$213,000 for that time period.

E. Streak's review of UTi's tariff revealed that UTi did not have tariffs on file for LCL shipments handled by UTi on behalf of Streak.

F. During the time period from 2009 through 2011, UTi billed Streak in excess of \$210,000 for LCL shipments for which it had no tariff on file.

G. Upon information and belief, Streak believes that UTi has overcharged it by billing amounts in excess of its lawful tariff from 2003 until the present.

H. Streak only learned that UTi was billing it for amounts in excess of its published tariff when it retained an expert to engage in a review of the freight invoices paid to UTi. Streak engaged in this analysis due to concern as to the rates it was being charged by UTi.

I. Prior to December of 2012, Streak neither knew, nor could have known, that UTi was charging it for amounts in excess of UTi's published tariff.

J. UTi engaged in an unfair and unjustly discriminatory practice by charging Streak rates greater than those it charged other shippers.

V. Violations of the Shipping Act of 1984

A. UTi violated 46 U.S.C. § 41104(2) by charging Streak rates greater than those reflected in its published tariff.

B. UTi engaged in an unfair or unjustly discriminatory practice in violation of 46 U.S.C. § 41104(4) by charging Streak rates greater than those it charged other shippers.

C. UTi violated 46 U.S.C. § 40501 by failing to keep open to public inspection in its tariff system, tariffs showing all its rates, charges, classifications, rules and practices between all points or ports on its own route and on any through transportation route that has been established.

VI. Injury to Streak

A. As a direct result of the violations of the 1984 Act by the Respondent, Streak has incurred damages in excess of \$400,000.00. The full extent of damages can only be determined after obtaining discovery in regard to the entire time period for which UTi has been overcharging Streak and the dollar amount of such overcharges.

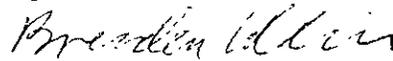
VI. Prayer for Relief

A. Statement regarding ADR procedures: Alternative dispute resolution procedures were not used prior to filing the Complaint and Complainant has not consulted with the Commission Dispute Resolution Specialist about utilizing alternative dispute resolution.

B. WHEREFORE, Streak prays that the Respondent be required to answer the charges in this Complaint; and that after due hearing and investigation: 1) an order be entered commanding UTi to pay Streak reparations for violations of the Shipping Act, plus interest, costs, and attorneys' fees any other damages to be determined; and 2) that such other and further relief be granted as the Commission determines to be proper, fair and just in the circumstances.

C. Streak requests a hearing on this matter, and further requests that the hearing be held in Washington, D.C.

Respectfully submitted,



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Attorneys for Streak Products, Inc.

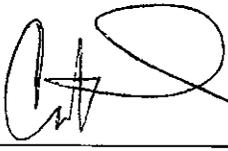
Dated: April 12, 2013

VERIFICATION

Curt Rush declares and states that he is the Secretary of Streak Products, Inc., Complainant in this proceeding, and that the foregoing Verified Complaint is true to the best of his information and belief; and that the grounds of his belief as to all matters not upon his own personal knowledge is information which has otherwise been provided to Complainant.

I declare and state under penalty of perjury that the foregoing is true and correct.

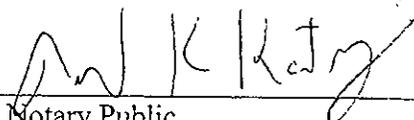
Executed on April 12, 2013



STATE OF NEW YORK)
COUNTY OF NASSAU)

Sworn to and subscribed before me this 12th day of April, 2013, by

Curt Rush



Notary Public

My commission expires 1/3/2015

INGRID K. KAUF
NOTARY PUBLIC, State of New York
No. 01KA5087673
Qualified in Nassau County
Commission Expires January 3, 2015

cc: OS
OCC
(RUSG)
Rw

BEFORE THE
FEDERAL MARITIME COMMISSION

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2013 APR 22 PM 12:08

OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION

A ORIGINAL

Docket No.

STREAK PRODUCTS, INC.,

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UTi, UNITED STATES, INC.,

RESPONDENT.

AFFIDAVIT OF SERVICE

I certify that I served the Verified Complaint upon counsel for Respondent, UTi, United States, Inc. ("UTi"). Ashley W. Craig agreed to accept service of the Verified Complaint on behalf of UTi. Ashley W. Craig and Elizabeth K. Lowe were served via email (awcraig@venable.com and eklowe@venable.com) on April 12, 2013 at 5:02 p.m. and by hand-delivery at 575 Seventh Street, NW, Washington, DC 20004 on April 15, 2013 at 11:40 a.m.

I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

4/15/13
Date

Brendan Collins
Brendan Collins
GKG LAW, PC
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Washington, DC 20007
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District of Columbia
Subscribed and sworn to before me, in my presence,
this 12th day of April, 2013
Elise M. Schaengold
Notary Public, **ELISE M. SCHAENGOLD**
My commission expires April 14, 2018
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires April 14, 2018