BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 13-05

AMENDMENTS TO REGULATIONS GOVERNING OCEAN TRANSPORTATION INTERMEDIARY LICENSING AND FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES

COMMENTS OF C J INTERNATIONAL INC

I am Tom Poché, Treasurer and VP of Finance and Administration for C J International Inc., located at 403 Maclean Ave, Louisville, Kentucky, 40209.

C J is a freight forwarder, license number 3716F, incorporated in Maryland in 1987. C J has six offices in the United States.

C J is a member of the NCBFAA and we are familiar with the issues raised by the ANPRM and we are very concerned about the issues raised by the ANPRM.

C J is opposed to the FMC's proposal to require all forwarders and NVOCCs to renew licenses every two years by filing an application and paying a fee. We feel this is unnecessary because all OTIs are already required to keep the Commission informed of any changes in their corporate structure, officers and directors, and locations of their headquarters and branch offices. If the Commission is concerned that some OTIs are not complying with this obligation, a simpler proposal would be to require all OTIs to file an annual certification, without requiring a formal application. We also feel, in view of the information Commission staff often seeks during the process of reviewing a license application, there is reason for concern that the renewal process will take up a great deal of time looking for information that has little or no relevance to the company's performance. Of greatest concern is that it is unclear whether any problems the FMC might have with a QI at the time of license renewal would also jeopardize the license of the company; for example, would a company's license be jeopardized because its QI is engaged in litigation over some alleged debt?

C J is opposed to the FMC's proposal to increase the bond amount from $50,000 to $75,000 for ocean forwarders, from $75,000 to $100,000 for NVOCCs, and $150,000 to $200,000 for foreign registered NVOCCs. As far as we know, no reason has been given for why any increase is appropriate. It is not clear why OTIs are being singled out for these increased bonds; if VOCCs go bankrupt or experience mishaps where a vessel sinks or it is necessary to declare general average, the shippers are hurt far worse, so why is the FMC focusing on OTIs? Most commercial shippers are insured against cargo loss and damage. If we had a legitimate claim from a shipper, we would pay it, so that there is no reason for anyone to proceed against our bond; indeed, no one ever has. If the real problem that the Commission is facing deals with the transportation of household goods for non-commercial shippers, there is no reason to increase the bonds for mainstream OTIs that do not handle such items. There is no indication in the ANPRM that any claim has been made against a licensed forwarder's bond, so that there is no rationale for increasing forwarder bonds.

C J is opposed to the FMC's proposal to institute a priority system for paying claims that are made against bonds; as proposed, the Commission would require that the sureties pay, first, any shippers with claims, then any carriers and OTIs; and third, any government claims. We can think of no reason why shippers should have a priority over OTIs, since NVOs are also shippers in their relationship to the carriers. Similarly, if an OTI is a claimant, any monies that may be due from another OTI under the bond is money for which the claimant cannot be insured, unlike the situation with shippers.

C J is opposed to the FMC's proposal that the Commission require carriers and sureties to file with the FMC a list of any claims made by them that relate in any way to the transportation activities of a forwarder or NVOCC, when that listing will be made public on the Commission's website. The publication by the FMC of claims made against OTIs, especially since those claims may have little or no merit, could be very damaging to the company. Even with a disclaimer that the Commission is not making any judgment about the veracity of the allegations, this listing would likely have a damaging effect on the company's reputation and would threaten its business and viability. When our company has valid claims against it, either it or its insurance companies pay those claims, so that there has never been an occasion when a claimant has been forced to move against our FMC bond; accordingly, this required publication has little or no relevance to the commercial realities of how business is done.

C J is opposed to the FMC's proposal that regulations require that any shipping documentation or advertising by the agents bear the name and license number of the principal OTI. It is not clear which agents would be covered by the regulation; for example, an agent could be considered to be an accounting firm, drayage companies, warehouses, railroads, truckers, packing companies, and not just break-bulk and loading agents. Are they all covered? It is not clear whether written agency agreements should really be required. Again, given the nature of the vast array of agency arrangements that necessarily arise in this industry, it may be impossible for any OTI to have a written arrangement with certain companies. Many break-bulk agents, sales agents and other types of companies providing agency services represent a number of OTIs. It would therefore be very difficult, if not impossible, for them to always list the name of the relevant principal they are representing on all of their advertising. It is not clear why any regulation of this nature is required, since the principal would always be responsible for the actions of the agent anyway; accordingly, why impose new regulations that relate to how the principal and agent interact? If the real problem the FMC is having relates to agents moving household goods in the so-called barrel trade, it is not clear why the Commission should be imposing these new regulations on regular, commercial OTIs.

C J believes that there are other initiatives that the Commission should have considered in order to eliminate unnecessary regulatory burdens or otherwise facilitate the role of OTIs in the movement of traffic. For example:

1. Total elimination of OTI rate tariff publication, so as to avoid any procedural requirements.
2. The elimination of the need for NVOCCs to file NVOCC Service Agreements ("NSAs") or publish their essential terms.
3. Require vessel operators to file their contingency plans with the Commission, which could be posted on the Commission's website, so that the trade can be advised of those plans in the event there are severe weather or labor issues that could lead to significant service disruptions.
4. Work with the FMCSA to establish a common bond for OTIs and motor carrier property brokers, which would reduce the financial burden on intermediaries.

DATED: August 26, 2013 Tom Poché – for C J International Inc

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