

(S E R V E D)
(APRIL 28, 2016)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 16-10

RUSH TRUCK CENTERS OF ARIZONA, INC., RUSH TRUCK CENTERS OF CALIFORNIA, INC., RUSH TRUCK CENTERS OF COLORADO, INC., RUSH TRUCK CENTERS OF FLORIDA, INC., RUSH TRUCK CENTERS OF GEORGIA, INC., RUSH TRUCK CENTERS OF IDAHO, INC., RUSH TRUCK CENTERS OF KANSAS, INC., RUSH TRUCK CENTERS OF NORTH CAROLINA, INC., RUSH TRUCK CENTERS OF OHIO, INC., RUSH TRUCK CENTERS OF OKLAHOMA, INC., RUSH TRUCK CENTERS OF TEXAS, LP., RUSH TRUCK CENTERS OF UTAH, INC., ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED

V.

NIPPON YUSEN KABUSHIKI KAISHA, NYK LINE (NORTH AMERICA) INC., MITSUI O.S.K. LINES, LTD., MITSUI O.S.K. BULK SHIPPING (USA), INC., WORLD LOGISTICS SERVICE (USA) INC., HÖEGH AUTOLINERS AS, HÖEGH AUTOLINERS, INC., NISSAN MOTOR CAR CARRIERS CO. LTD., KAWASAKI KISEN KAISHA, LTD., “K” LINE AMERICA, INC., WALLENIIUS WILHELMSSEN LOGISTICS AS, WALLENIIUS WILHELMSSEN LOGISTICS AMERICAS LLC, EUKOR CAR CARRIERS INC., COMPAÑÍA SUD AMERICANA DE VAPORES S.A., AND CSAV AGENCY NORTH AMERICA, LLC

NOTICE OF FILING OF COMPLAINT AND ASSIGNMENT

Notice is given that a Complaint has been filed with the Federal Maritime Commission (Commission) by the above named Complainants, “on behalf of themselves and all others similarly situated, hereinafter “Complainants,” against the above named “providers of Vehicle Carrier Services”, hereinafter “Respondents.” The Complaint is brought as a proposed class

action. Complainants “seek to represent classes of truck and heavy equipment dealers in approximately 30 states . . . who purchased new Vehicles . . . that included in their prices Vehicle Carrier Services from any Respondent, unnamed co-conspirator, or any current or former subsidiary or affiliate thereof” Complainants allege that Respondents “transport large numbers of cars, medium – and heavy-duty trucks, and other new, assembled motor vehicles including buses, commercial vehicles, construction equipment, mining equipment, and agricultural equipment . . . across oceans and other large bodies of water using specialized cargo ships known as Roll On-Roll Off vessels (“RoRos”).”

Complainants allege that Respondents violated provisions of the Shipping Act of 1984, including 46 U.S.C. 40302(a), 41102(b)(1), 41102(c), 41103(a)(1) and (2), 41104(10), 41105(1) and (6), and the Commission’s regulations at 46 CFR § 535.401 et seq., because they “participated in a combination and conspiracy to suppress and eliminate competition in the Vehicle Carrier Services market by agreeing to fix, raise, stabilize and/or maintain the prices of, and allocation [sic] the market and customers for Vehicle Carrier Services sold to Vehicle manufacturers (“OEMs”) in the United States and elsewhere for the import and export of new, assembled Vehicles to and from the United States.”

Complainants request the following relief:

- “1) That Respondents be required to answer the charges herein;
- 2) That after due investigation and hearing Respondents be found to have violated 46 U.S.C. §§ 40302(a), 41102(b)(l), 41102(c), 41103(a)(l) and (2), 41104(10), 41105(1) and (6), and 46 CFR § 535.401, et seq., and such other provisions as to which violations may be proved hereunder;

3) The FMC determine that this action may be maintained as a class action under Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure, and direct that reasonable notice of this action, as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be given to each and every member of the Truck and Equipment Dealer Class;

4) That Complainants be awarded reparations in a sum to be proven under 46 U.S.C. § 41305, with interest (46 U.S.C. § 41305(a)) and reasonable attorneys' fees (46 U.S.C. § 41305 (b));

5) That Complainants be awarded double its proven actual injury under 46 U.S.C. § 41305(c) because Respondents and their co-conspirators violated 46 U.S.C. §§ 41102(b) and 41105(1);

6) That Respondents be found jointly and severally liable for the conduct alleged herein, including that of their co-conspirators; and

7) That such other and further order or orders be made as the FMC determines to be proper.

The full text of the complaint can be found in the Commission's Electronic Reading Room at www.fmc.gov/16-10.

This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by April 28, 2017 and the final decision of the Commission shall be issued by November 13, 2017.

Karen V. Gregory
Secretary