

2009 JUN 16 Pii 4:52

A LIMITED LIABILITY PARTNERSHIP

FEDERAL MARITIME COMMISSION

Writer's Direct Dial:

(202) 463-2516

June 16, 2009

**VIA MESSENGER**

Karen V. Gregory, Secretary  
Federal Maritime Commission  
800 N. Capital Street, N.W.  
Washington, D.C. 20573-0001

Re: Mitsui O.S.K. Lines Ltd. v. Global Link Logistics, et al.

Dear Ms. Gregory:

Enclosed for filing in the above matter are an original and fifteen copies of Complainant's Motion for Leave to File Amended Complaint and Amended Complaint.

An additional copy of each is enclosed to be stamped "received" and returned to our messenger.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,



Heather M. Spring

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**BEFORE THE  
FEDERAL MARITIME COMMISSION**

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**

**MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

Complainant Mitsui O.S.K. Lines Ltd. ("MOL"), hereby moves, pursuant to FMC Rule 70, 46 C.F.R. § 502.70, for leave to file the attached Amended Complaint. Counsel for respondents have been contacted and have advised as follows: respondents Global Link Logistics, Inc., CJR World Enterprises, Inc., and Chad J. Rosenberg do not object to the motion; respondents Olympus Growth Fund III, L.P., Olympus Executive Fund, L.P., Louis J. Mischianti, David Cardenas, and Keith Heffernan object to the motion.

The Complaint filed on May 5, 2009, named "Olympus Partners L.P." as a respondent. That entity has not yet entered an appearance and counsel for Olympus Growth Fund III, L.P., Olympus Executive Fund, L.P., Louis Mischianti, David Cardenas, and Keith Heffernan ("the Olympus Parties") has advised that there is no such "legal entity." We asked counsel for the

Olympus Parties to clarify and/or provide some support for this assertion, but he has declined to do so.

We initially believed Olympus Partners to be a Delaware limited partnership based on its participation in litigation in Cook County Illinois (along with the other Olympus Parties) as “Olympus Partners, L.P.,” as well as the fact that Dunn & Bradstreet identifies Olympus Partners of Stamford, Connecticut as a Delaware limited liability company and a search of Delaware corporate records revealed a domestic limited partnership named Olympus Partners, L.P.<sup>1</sup> Upon further research, however, it appears to us that Olympus Partners may, in fact, be a general partnership<sup>2</sup> rather than a limited partnership. The company’s website and press releases solely refer to the entity as “Olympus Partners” without any “L.P.” designation and the website further refers to respondents Mischianti, Hefferman, and Cardenas, along with others, as “general partners” of the firm. (See Ex. A).

Following our additional research we asked counsel for the Olympus Parties whether our assumption that Olympus Partners was a general partnership rather than a limited partnership was correct. Again counsel insisted that there is no such entity as Olympus Partners. It has not, however, provided any support for this position, which is directly at odds with the company’s website and press releases showing an active business firm.

Since Olympus Partners has refused to enter an appearance based on service of a complaint naming “Olympus Partners, L.P.” and has refused to work with us to clarify the issue

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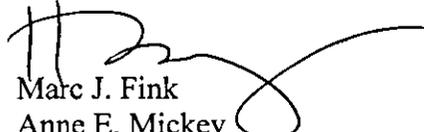
<sup>1</sup> On subsequent research it was discovered that there is a record of two Delaware limited partnerships named “Olympus Partners, L.P.” One was formed in 2008 and is currently in existence, and one formed in 1998 and dissolved in 2003. Counsel for the Olympus Parties has represented that those parties have no connection to either Delaware entity and we accept that representation.

<sup>2</sup> Under Connecticut law, “the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.” Conn. Gen. Stat. § 34-314.

or correct the pleadings, the only option is to file and serve an amended complaint with what we now believe to be the correct name, "Olympus Partners." In addition, paragraph II.D of the Complaint should be revised to describe Olympus Partners as a Connecticut general partnership instead of a Delaware limited partnership.

The attached amended pleading corrects only these technicalities and does not in any way amend the substance of the pleading or broaden the issues. As such, the amendment should not in any way affect the other respondent's responsive pleadings. Accordingly, MOL respectfully requests that it be granted leave to file the Amended Complaint, and that the attached Amended Complaint be deemed to be filed.

Respectfully submitted,



Marc J. Fink  
Anne E. Mickey  
Heather M. Spring  
SHER & BLACKWELL, LLP  
1850 M Street, N.W., Suite 900  
Washington, D. C. 20036  
Tel.: (202) 463-2500  
Fax: (202) 463-4950

*Attorneys for Mitsui O.S.K. Lines, Ltd.*

Dated: June 16, 2009

## CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June 2009, I have served the forgoing Motion for Leave to File Amended Complaint and Amended Complaint upon the following counsel of record by e-mail and first class mail, postage prepaid:

David P. Street  
Brendan Collins  
GKG LAW, P.C.  
1054 31st St., N.W., Ste. 200  
Washington, D.C. 20007-4492  
(202) 342-5220  
[dstreet@gkglaw.com](mailto:dstreet@gkglaw.com)  
[bcollins@gkglaw.com](mailto:bcollins@gkglaw.com)  
*Attorneys for Global Link Logistics, Inc.*

Carlos Rodriguez  
RODRIGUEZ O'DONNELL  
GONZALEZ & WILLIAMS, P.C.  
1250 Connecticut Ave., NW, Ste. 200  
Washington, DC 20036  
(202) 973-2999  
[rodriguez@rorlaw.com](mailto:rodriguez@rorlaw.com)  
*Attorney for CJR World Enterprises and  
Chad J. Rosenberg*

Warren L. Dean, Jr.  
Robert A. Shapiro  
Sean McGowan  
Ryan K. Manger  
THOMPSON COBURN LLP  
1909 K St., N.W., Ste. 600  
Washington, D.C. 20006  
(202) 585-6900  
[wdean@thompsoncoburn.com](mailto:wdean@thompsoncoburn.com)  
[rshapiro@thompsoncoburn.com](mailto:rshapiro@thompsoncoburn.com)  
[smcgowan@thompsoncoburn.com](mailto:smcgowan@thompsoncoburn.com)  
[rmanger@thompsoncoburn.com](mailto:rmanger@thompsoncoburn.com)  
*Attorneys for Olympus Growth Fun III, L.P.,  
Olympus Executive Fund, L.P., Louis J.  
Mischianti, David Cardenas, and Keith  
Heffernan*

A copy of the forgoing was further served upon the following respondent, not presently represented by counsel, via FedEx:

OLYMPUS PARTNERS  
Metro Center  
One Station Place  
Stamford, CT 06902  
Attn: Robert S. Morris  
Managing Partner

  
\_\_\_\_\_  
Heather M. Spring

**EXHIBIT A**

## Olympus Partners - About Us

Our Focus is Helping Companies Succeed.

Founded in 1988, Olympus manages over \$3.1 billion on behalf of corporate pension plans, public retirement systems, university endowment funds, and the executives of Olympus' portfolio companies. The majority of our limited partners have been investors with Olympus for over 15 years, and Olympus Growth Fund V, our latest offering, has committed capital of \$1.5 billion.

In order to maximize the time spent working with each of our portfolio companies, we limit new investments to only three or four each year, and our preferred investment size ranges from \$20 million for growth capital deals to \$300 million or more for buyouts. In addition to pecuniary resources, Olympus offers several other critical elements to help its management partners reach their goals.

### ***Deep experience and proven track record***

- 50 + investments since 1988
- Average of 18 years of private equity experience among 7 general partners
- Over \$2 billion of realized proceeds from successful exits to date

### ***A strong focus on growth and operational improvements***

- Average annual earnings growth of 20% for all exited portfolio companies in last two funds
- Olympus has never executed a leveraged recapitalization of an existing portfolio company

### ***Active value-added partners with management***

- Three to five board seats per general partner

### ***Long-term, stable LP relationships***

- Despite a doubling of the fund's size over 90% of the capital in Olympus Growth Fund V was committed by institutions and individuals in prior Olympus funds

Olympus Partners - Our Team  
Our Team

Because the experience and abilities of our people set us apart from the competition. Our seven general partners bring an average of 18 years of private equity experience to the table and have been working together for a decade. Coupled with the absence of a formal investment committee, this long tenure prevents last minute surprises during the deal evaluation and negotiation processes. Unlike bigger private equity firms, at Olympus the same group guides every investment from purchase to sale – creating an efficient, professional and rewarding investor/management relationship.

Click below to learn more about our people and what they can do for you.

**Managing Partner**

Robert S. Morris

**Partners**

Manu Bettegowda  
L. David Cardenas  
James A. Conroy  
Keith Heffernan  
Louis J. Mischianti  
Paul A. Rubin

**Senior Associates**

Jason M. Miller  
Chris L. Smith  
Sean P. Whiteley

**Associates**

Sarah Betzwieser  
Arjun Bhattacharjee  
Mark C. Tamburello

**Manager of Financial Reporting**

Andrea Sprole

**Vice Presidents**

Evan J. Eason  
David Haddad  
Michael D. Horgan

Olympus Partners - Contact Us  
Contact Us

Olympus Partners  
Metro Center  
One Station Place  
Stamford, CT 06902

Telephone: 203-353-5900

Fax: 203-353-5910

Click below for directions to our office from:

[Manhattan](#)

[The North](#)

[LaGuardia Airport](#)

[JFK Airport](#)

[Westchester County Airport \(White Plains\)](#)

[Newark Airport](#)

**From Manhattan:**

**By Train:**

- Metro North trains (from Grand Central Terminal) and Amtrak trains (from Penn Station) stop at Stamford Station, which is directly across the street from our building, Metro Center.

**By Car:**

- Travel North on the West Side Highway (also known as the Henry Hudson Parkway) to I-95 North.
- Continue on I-95 North to Exit 7 in Stamford, CT (about 25-30 miles from NYC).
- Proceed straight through first light at end of ramp and proceed to next traffic light (at Washington Blvd.) You will see the Stamford Railroad Station in directly in front of you.
- Make a Right turn onto Washington Blvd and go under the railroad tracks.
- Make an immediate left into Station Place. You will see our building at the corner of Washington Blvd. and Station Place.
- Continue past the main entrance of the Metro Center and turn right into parking garage.
- Enter building from garage and proceed to Concierge Desk and sign in. Olympus is located on the 4th floor, North. Upon exiting the elevator, turn left.

**By Chopper (for Limited Partners only):**

Olympus Partners - News

## News

### Olympus Partners Invests \$50 Million In Atlas Industrial Services

*April 23, 2009*

Olympus Partners, a Stamford, CT-based private equity investor, has invested \$50 million in equity and subordinated debt in Atlas Industrial Services LLC (the "Company"), which through its operating subsidiary Phoenix Services LLC ("Phoenix Services"), provides mill services to the global steel industry. The funding will enable Phoenix Services to continue its rapid expansion, bringing its premier service offering to steel mills of leading global steel manufacturers.

Unionville, PA-based Phoenix Services, which commenced operations in 2006, is one of the leading and fastest growing steel mill service companies in the world. Phoenix Services operates under long-term service contracts with many of the world's premier steel makers, including ArcelorMittal, Gerdau Ameristeel, SeverStal, Steel Dynamics and others, and has revenue in backlog in excess of \$600 million.

Atlas Industrial Services LLC is an affiliate of Greenwich, CT-based Atlas Holdings LLC ("Atlas Holdings") which has overseen the significant growth at Phoenix Services.

"As Phoenix Services enters its next phase of expansion, Atlas Holdings is excited to welcome a new partner whose core business values are aligned with ours," said Atlas Holdings Chairman Andrew M. Bursky. "An investment of this magnitude in today's current capital environment is a testament to the management team at Phoenix Services and the exciting prospects for the business. Our partnership with Olympus will allow Phoenix Services to realize the tremendous opportunities for growth that we see in the steel mill services industry."

Olympus has approximately \$3.1 billion under management and invests in market leading companies with excellent opportunities for growth. The investment in the Company was made through Olympus' \$1.5 billion Olympus Growth Fund V, L.P.

"We are pleased to be taking a leading role with a dynamic growth company. The Phoenix management team has built an organization that is focused on providing exceptional service to its steel mill clients and has made huge inroads toward becoming a dominant force in the steel mill services industry," said Olympus Partners' Managing Partner Robert S. Morris.

#### About Atlas Holdings LLC

Atlas Holdings LLC operates businesses in a number of industrial sectors, including the paper, packaging, wood products, capital equipment and steel industries. Overall, Atlas Holdings' affiliated companies operate facilities in more than 30 locations throughout North America and Europe and employ approximately 3,000 people. For additional information, please visit [www.atlasholdingsllc.com](http://www.atlasholdingsllc.com)

About Olympus Partners

Founded in 1988, Olympus Partners manages over \$3.1 billion. The firm focuses on growth investments with strong management teams and dominant market positions that demonstrate an ability to create long-term value. Olympus Partners focuses on companies in the business services, transportation and logistics services, healthcare manufacturing and services, financial services, consumer and restaurant and software and IT services sectors.

About Phoenix Services LLC

Atlas Industrial Services LLC, through its operating subsidiary Phoenix Services LLC provides steel mill services for the world's leading steel manufacturers with particular expertise in slag handling, slag processing, scrap recovery and scrap yard management, as well as producing high quality slag aggregate for local markets. For additional information on Phoenix Services LLC, please visit [www.phxslag.com](http://www.phxslag.com)

[More News](#)

Olympus Partners - News

## News

### Olympus Says Tanks

*September 30, 2008*

Stamford, CT based Olympus Partners is pleased to announce that it has invested through Olympus Growth Fund V, L.P. approximately \$110 million in equity capital to help finance the purchase of Norwesco, Inc. from Allied Capital Corporation (NYSE:ALD). Norwesco, Inc., headquartered in St. Bonifacius, Minnesota, is North America's leading manufacturer of proprietary rotationally molded polyethylene tanks primarily for agricultural, water, closed-top industrial, and below-ground septic applications. Founded in 1939, the Company now has 17 facilities in North America.

Founded in 1988, Olympus Partners is a Stamford, Conn.-based private equity firm focused on providing equity capital for middle market management buyouts and for companies needing capital for expansion. Olympus is an active, long-term investor across a broad range of industries, including healthcare services, financial services, consumer products and business services. Olympus manages in excess of \$3 billion on behalf of corporate pension funds, endowment funds and state-sponsored retirement programs.

The Olympus team included Manu Bettgowda, Mike Horgan, Sarah Betzwieser, and Mark Tamburello. Olympus was represented by John Schoenfeld and Jim Faley of Kirkland & Ellis LLP.

Please contact Rob Morris at (203) 353-5900 with any questions.

[More News](#)

Olympus Partners - Partners



**L. David Cardenas**

**Partner**

Dave joined Olympus in 1996 as a Principal and has been a Partner of Olympus since 1998.

Dave previously worked at McKinsey & Company, where he was a Senior Engagement Manager, and as a consultant at Bain & Company.

**Education**

B.S. from the University of Virginia

M.B.A. from the University of North Carolina

**Current and representative past portfolio company involvement**

Woodcraft Industries

Professional Service Industries

Meridian Rail Services

Club Staffing

AMN Healthcare

Global Link Logistics

Prime Advantage

The Princeton Review

Phoenix Services

Olympus Partners - Partners



**Keith Heffernan**

**Partner**

Keith joined Olympus in 1998 as a Senior Associate. He was promoted to Partner in 2004.

Previously, he worked as an Associate at General Atlantic Partners, a late-stage venture capital firm, and in corporate development at Aspect Communications. Prior to that, Keith was an auditor with Ernst & Young where he earned his certification as a CPA.

**Education**

B.S. from the Wharton School of the University of Pennsylvania

M.B.A. from the Stanford University Graduate School of Business

**Current and representative past portfolio company involvement**

Woodcraft Industries

Meridian Rail Services

Global Link Logistics

Frictionless Commerce

Prime Advantage

Vignette

enCommerce

Olympus Partners - Partners



**Louis J. Mischianti**

**Partner**

Lou joined Olympus in 1994 as a Partner.

Prior to joining Olympus, Lou co-founded The Clipper Group in 1990, where he was responsible for originating and executing private equity investments and for managing First Boston's merchant banking portfolio. From 1989-1990, Lou was a principal at Odyssey Partners, a private investment firm. Prior to joining Odyssey, he spent nine years at First Boston in the investment and merchant banking departments, specializing in leveraged buyouts, restructuring and corporate finance.

**Education**

A.B. from Yale University

**Current and representative past portfolio company involvement**

Pepper Dining

Woodcraft Industries

Professional Service Industries

Homax Products

Meridian Rail Services

Nebraska Book Company

TravelCenters of America

Supermercados Norte

Client Distribution Services

National Technological University Corporation

The Princeton Review

Snyder Industries

Norwesco

The Ritedose Corporation

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BEFORE THE  
FEDERAL MARITIME COMMISSION

Docket No. 09 -01

FEDERAL MARITIME COMMISSION

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. MISCHIANTI, DAVID  
CARDENAS, KEITH HEFFERNAN, CJR WORLD ENTERPRISES, INC. AND CHAD J.  
ROSENBERG

RESPONDENTS

AMENDED COMPLAINT

I. Complainant

A. Complainant Mitsui O.S.K. Lines, Ltd. ("MOL"), is a corporation organized and existing under the laws of Japan. MOL is a vessel operating common carrier operating in the U.S. foreign trades.

B. MOL's mailing address is 1-1 Toranomom 2-chome, Minato-ku, Tokyo, Japan.

II. Respondents

A. Respondent, Global Link Logistics, Inc. ("Global Link") is a corporation organized under the laws of Delaware. Global Link's mailing address is Lakeside Center, 1990 Lakeside Parkway, Suite 300, Tucker, Georgia 30084. Global Link is a licensed ocean

transportation intermediary (“OTI”) that operates as a non-vessel operating common carrier (“NVOCC”).

B. Respondent Olympus Growth Fund III, L.P. (“OGF”) is a Delaware limited partnership having a registered agent at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801 and its principal place of business at Metro Center, One Station Place, Stamford, CT 06902. OGF was an owner of the respondent Global Link during periods relevant to this complaint.

C. Respondent Olympus Executive Fund, L.P. (“OEF”) is a Delaware limited partnership having a registered agent at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801 and its principal place of business at Metro Center, One Station Place, Stamford, CT 06902. OEF was an owner of the respondent Global Link during periods relevant to this complaint.

D. Respondent Olympus Partners (“Olympus Partners”) is a Connecticut general partnership having its principal place of business at Metro Center, One Station Place, Stamford, CT 06902. Olympus Partners is a private equity firm affiliated with OGF and OEF.

E. Respondents Louis J. Mischianti, David Cardenas, and Keith Heffernan are partners in Olympus Partners, with a business address at Metro Center, One Station Place, Stamford, CT 06902, and were officers and directors of Global Link during periods relevant to this complaint.

F. Respondent CJR World Enterprises, Inc. (“CJR”) is a Florida corporation having a registered agent at Florida Filing and Search Services, Inc., 155 Office Plaza Drive, Suite A, Tallahassee, FL 32301 and its principal place of business at 6025 Sandy Springs Circle, Atlanta, Georgia. CJR was an owner of Global Link during periods relevant to this complaint.

G. Respondent Chad Rosenberg has a business address at 6025 Sandy Springs Circle, Atlanta, Georgia. Chad Rosenberg is the owner of CJR and was an officer and director of Global Link during periods relevant to this complaint.

### **III. Jurisdiction**

This Complaint is being filed pursuant to Section 11(a) of the Shipping Act, 46 U.S.C. § 41301. MOL is seeking reparations for injuries caused to it by Global Link, OGF, OEF, Olympus Partners, Louis J. Mischianti, David Cardenas, Keith Heffernan, CJR, and Chad Rosenberg (collectively “the Respondents”) as a result of their violations of Sections 10(a)(1) and 10(d)(1) of the Shipping Act, 46 U.S.C. §§ 41102(a), 41102(c). As more particularly alleged below, the Respondents knowingly and willfully engaged in a scheme to fraudulently obtain ocean transportation for property for less than the rates and/or charges that would otherwise apply. Moreover, as demonstrated by these practices, including the preparation of false documents and provision of false information to MOL in violation of 46 C.F.R. § 515.31(e), the Respondents failed to establish, observe and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, and delivering property.

The activities giving rise to this complaint first came to MOL’s attention in 2008, when MOL was contacted in connection with an arbitration proceeding between Respondent Global Link and Respondents Olympus Partners, OEF, OGF, Mischianti, Cardenas, Heffernan, CJR, Rosenberg, and others.

### **IV. Statement of Facts and Matters Complained Of**

A. MOL began doing business with Global Link on or about May 11, 2004.

B. Since May of 2004, MOL has entered into 5 service contracts with Global Link, having the following service contract numbers: 5159351A04, 5159351A05, 5159351A06, 5159351A07, and 5159351A08.

C. 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 had an opportunity to negotiate rates to any inland destination required by its customers. The service contracts could also be 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.

D. The service contracts entered into between MOL and Global Link were subject to various tariff rules including the rules relating to diversion (defined as a change in the original billed destination). At all times relevant to this complaint, 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.

E. From 2004 through at least 2006, Global Link engaged in a scheme to defraud MOL and obtain ocean transportation at rates lower than the applicable service contract or tariff rates, by booking cargo to false inland destinations while intending to deliver the cargo to different inland destinations. Global Link referred to this practice with various names including "split routing," "mis-booking," and "re-routing."

F. This scheme was carried out with the full knowledge and participation of Respondents Olympus Partners, OEF, OGF, Mischianti, Cardenas, Heffernan, CJR, and Rosenberg.

G. In order to carry out its scheme, Global Link would provide MOL with false information regarding the ultimate destination of the cargo. The through bill of lading issued by MOL would reflect the false destination provided by Global Link. Inland transportation by truck would be arranged by MOL from the port of entry or rail container yard to the false destination. The through rate for transportation to the false destination would be billed by MOL and paid by Global Link.

H. Without MOL's knowledge, however, Global Link would issue a second bill of lading showing the true inland destination. Global Link would provide this bill of lading to the trucking company and tell the trucking company to disregard the instructions received from MOL.

I. Global Link would divert the cargo in this manner without submitting a request to MOL in accordance with the service contract and applicable tariff and without paying MOL the difference in rate or the applicable diversion charges. MOL would not even be notified of the diversion or the true destination of the cargo. Thus, despite MOL's issuance of a through bill of lading, MOL would have no information regarding the actual destinations of the cargo or its containers.

J. The true destinations that were hidden from MOL were either points with higher negotiated contract rates than the true destinations, or points with no negotiated rates that Global Link did not seek to add to the contracts. In either instance, the rates paid to MOL for transportation to the sham destinations were less than the rates that were applicable to the actual

destinations and that should have been paid to MOL by Global Link. Obtaining the lower rates was the reason for the practice and for the concealment of Global Link's activities from MOL.

K. In order to conceal the true destinations from MOL, Global Link employees created false invoices, addresses, and bills of lading. Global Link employees were often trained and reminded not to tell representatives of MOL of the true destination of goods that were diverted, and in fact, they were trained to lie if they were asked. Moreover, Global Link employees were taught how to find real addresses in the false destination cities to avoid tipping off carriers that the destinations provided to the carriers were phony.

L. The purpose and result of Global Link's false booking practice was to obtain shipping services from ocean carriers, including MOL, at rates better than the rates which Global Link was otherwise required to pay. Global Link's scheme resulted in MOL being underpaid by hundreds of dollars per container for thousands of containers, causing MOL to suffer damages of no less than \$4.5 million.

M. In August of 2008, MOL received a subpoena from Global Link seeking testimony about the split routing practices in connection with Global Link's arbitration with Olympus Partners, OEF, OGF, Mischianti, Cardenas, Heffernan, CJR, Rosenberg, and others. At that time, MOL spoke with counsel for Global Link about the practices and MOL advised Global Link that if such practices occurred, they would have been at MOL's expense. MOL accordingly requested a full accounting of the amounts that were improperly billed and recovery of same. Global Link has not provided such an accounting and has not compensated MOL for its damages.

**V. Violations of the Shipping Act of 1984**

A. As described in Part IV above, the Respondents engaged in a willful and deliberate fraudulent scheme to obtain ocean transportation for property for less than the rates and/or charges that would otherwise apply in violation of Section 10(a)(1) of the Shipping Act, 46 U.S.C. § 41102(a).

B. The Respondents' fraudulent actions and willful efforts to conceal information from MOL in an effort to obtain better rates constituted a failure to establish, observe and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, and delivering property in violation of Section 10(d)(1) of the Shipping Act, 46 U.S.C. § 41102(c).

C. Respondents' fraudulent practices, including the provision of false information and documents to MOL, violated 46 C.F.R. § 515.31(e), which prohibits the making or provision of false or fraudulent claims or false information.

**VI. Injury to MOL**

A. As a direct result of the violations of the 1984 Act by the Respondents, MOL was underpaid by hundreds of dollars per container, causing MOL to suffer damages of no less than \$4.5 million. The full extent of damages can only be determined after obtaining discovery and thereby securing information about the containers, destinations, and rates involved.

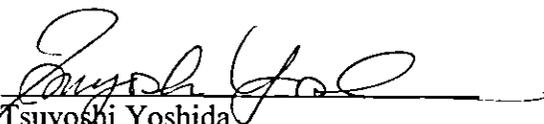
**VII. Prayer for Relief**

A. Statement Regarding ADR Procedures: Alternative dispute resolutions 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, MOL prays that the Respondents be required to answer the charges in this Complaint; that after due hearing and investigation an order be made commanding the Respondents to cease and desist from the aforementioned violations of the Shipping Act and Commission regulations and to establish and put in force such practices as the Commission determines to be lawful and reasonable; that an order be made commanding Respondents to pay MOL reparations for violations of the Shipping Act, plus interest, costs, and attorney's fees, and any other damages to be determined; and that such other and further relief be granted as the Commission determines to be proper, fair, and just in the circumstances.

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

Respectfully submitted,

  
By: Tsuyoshi Yoshida  
Title: Executive Vice-President/Chief Operating Officer  
Mitsui O.S.K. Lines, Ltd.  
For and on behalf of  
Mitsui O.S.K. Lines, Ltd.

  
By: Marc J. Fink  
Anne E. Mickey  
Heather M. Spring  
SHER & BLACKWELL, LLP

1850 M Street, N.W., Suite 900  
Washington, D. C. 20036  
Tel.: (202) 463-2500  
Fax: (202) 463-4950

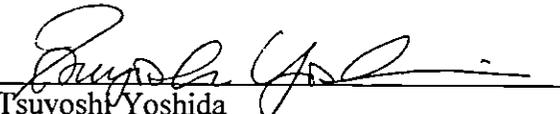
*Attorneys for Mitsui O.S.K. Lines, Ltd.*

Dated: June 16, 2009

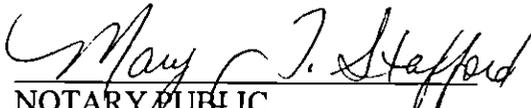
VERIFICATION

\_\_\_\_\_) )  
State of California ) )  
County of Contra Costa ) ss:  
\_\_\_\_\_)

Tsuyoshi Yoshida, being first duly sworn on oath, deposes and says that he is the Executive Vice President and Chief Operating Officer of Complainant and is the person who signed the foregoing Complaint; that he has read the Complaint and that the facts stated therein, upon information received from others, he believes to be true.

  
Tsuyoshi Yoshida

Subscribed and sworn to before me by Tsuyoshi Yoshida proved to me on the basis of satisfactory evidence to be the person who appeared before me, in Concord, CA this 12 day of June, 2009.

  
NOTARY PUBLIC  
For the State of California  
County of Contra Costa

My Commission expires: November 19, 2010

