

(S E R V E D)
(OCTOBER 22, 2009)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 09-07

World Chance Logistics (Hong Kong), Ltd. and Yu, Chi Shing, a.k.a. Johnny Yu –
Possible Violations of Section 10 of the Shipping Act of 1984

ORDER OF INVESTIGATION AND HEARING

World Chance Logistics (Hong Kong), Ltd., (“World Chance”) is a foreign based tariffed and bonded non-vessel-operating common carrier (“NVOCC”) registered with the Federal Maritime Commission (“Commission”) as Org. No. 018712. World Chance is located at #8 Des Voeux Road West, Rms. 1401-1402, Hong Kong, China. Yu, Chi Shing, a.k.a. Johnny Yu (“Mr. Yu”) is the company’s sole shareholder and chief executive officer.

Based on evidence available to the Commission, it appears that World Chance and Mr. Yu may have permitted unrelated shippers of pyrotechnics to have direct access to the rates in World Chance’s service contracts. Moreover, it also appears that World Chance and Mr. Yu may have provided rates and charges to pyrotechnics shippers which were not in accordance with the rates and charges contained in World Chance’s tariff.

Additionally, in 2005, Mr. Yu incorporated Fireworks Logistics Association Ltd. (“FLA”) as a “private limited company” in Hong Kong. FLA, however, does not appear to have a separate legal identity, and lists World Chance’s Hong Kong address as its own and uses World Chance’s telephone and fax numbers and its email account. From the evidence developed, it appears that by entering into service contracts in FLA’s name, World Chance and Mr. Yu may have utilized FLA as an unfair device or means to obtain lower rates and to receive volume incentive payments not otherwise applicable.

Section 10(a)(1) of the 1984 Act, 46 U.S.C. 41102(a) prohibits any person from knowingly and willfully obtaining or attempting to obtain ocean transportation of property at less than the otherwise applicable rates or charges “by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means....” Section 10(b)(1) of the 1984 Act, 46 U.S.C. 41104(1), prohibits a carrier from allowing any person to obtain transportation of property at less than the rates and charges in the carrier’s tariff or filed contracts “by means of false billing, false classification... or by any other unjust or unfair device or means.” Section 10(b)(2) of the 1984 Act, 46 U.S.C. 41104(2), prohibits providing service in the liner trades “not in accordance with” the rates and charges published in a tariff or filed in an NVOCC service arrangement.

Pursuant to section 13 of the 1984 Act, 46 U.S.C. 41109, a party is subject to a civil penalty not exceeding \$5,000 for each violation unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed \$25,000 for each violation.¹

¹ Effective July 31, 2009, the maximum levels of civil penalties were adjusted for inflation to \$8,000 and \$40,000, respectively. For the period of violations discussed in this memorandum prior to July 31, 2009, the maximum level of civil penalties was \$6,000 and \$30,000, respectively.

NOW THEREFORE, IT IS ORDERED, That pursuant to sections 10 and 11 of the 1984 Act, 46 U.S.C. 41102(a), and 41104(1) and (2), an investigation is instituted to determine:

1) whether World Chance Logistics (Hong Kong), Ltd. and/or Yu, Chi Shing, a.k.a. Johnny Yu, violated section 10(a)(1) of the 1984 Act, 46 U.S.C. 41102(a), by utilizing Fireworks Logistics Association, Ltd. as an unfair device or means to obtain lower rates and receive volume incentive payments not otherwise applicable;

2) whether World Chance Logistics (Hong Kong), Ltd. and/or Yu, Chi Shing, a.k.a. Johnny Yu, violated section 10(b)(1) of the 1984 Act, 46 U.S.C. 41104(1), by allowing persons to obtain transportation of property at less than the rates and charges in the carrier's tariff or filed contracts "by means of false billing, false classification . . . or by any other unjust or unfair device or means;"

3) whether World Chance Logistics (Hong Kong), Ltd. and/or Yu, Chi Shing, a.k.a. Johnny Yu, violated section 10(b)(2) of the 1984 Act. 46 U.S.C. 41104(2), by providing service in the liner trades "not in accordance with" the rates and charges published in a tariff or filed in an NVOCC service arrangement;

4) whether, in the event violations of section 10 of the 1984 Act are found, civil penalties should be assessed against World Chance Logistics (Hong Kong), Ltd. and/or Yu, Chi Shing, a.k.a. Johnny Yu and, if so, the amount of the penalties to be assessed; and

5) whether, in the event violations are found, appropriate cease and desist orders should be issued against World Chance Logistics (Hong Kong), Ltd. and/or Yu, Chi Shing, a.k.a. Johnny Yu.

IT IS FURTHER ORDERED, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's

Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

IT IS FURTHER ORDERED, That World Chance Logistics (Hong Kong), Ltd. and Yu, Chi Shing, a.k.a. Johnny Yu are designated as Respondents in this proceeding;

IT IS FURTHER ORDERED, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

IT IS FURTHER ORDERED, That notice of this Order be published in the Federal Register, and a copy be served on the parties of record;

IT IS FURTHER ORDERED, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

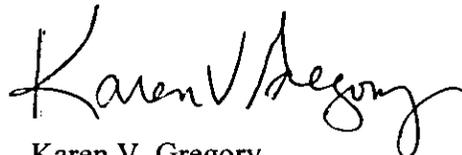
IT IS FURTHER ORDERED, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

IT IS FURTHER ORDERED, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington,

D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record; and

IT IS FURTHER ORDERED, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by October 22, 2010 and the final decision of the Commission shall be issued by February 22, 2011.

By the Commission.

A handwritten signature in black ink that reads "Karen V. Gregory". The signature is written in a cursive, flowing style.

Karen V. Gregory
Secretary