

ORIGINAL

(S E R V E D)  
( July 14, 2010 )  
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

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DOCKET NO. 10-06

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YAKOV KOBEL AND VICTOR BERKOVICH

v.

HAPAG-LLOYD AMERICA, INC., LIMCO LOGISTICS, INC., AND INTERNATIONAL TLC,  
INC.

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NOTICE OF FILING OF COMPLAINT AND ASSIGNMENT

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Notice is given that a complaint has been filed with the Federal Maritime Commission ("Commission") by Yakov Kobel and Victor Berkovich, hereinafter "Complainants," against Hapag-Lloyd America, Inc. ("Hapag-Lloyd"), Limco Logistics, Inc. ("Limco"), and International TLC, Inc. ("Int'l TLC"), hereinafter "Respondents." Complainants assert that Respondent Hapag-Lloyd is a corporation registered under the laws of the state of New Jersey and is an ocean carrier "duly registered/licensed with Federal Maritime Commission." Complainants assert that Respondent Limco is a corporation registered under the laws of the state of Florida and an ocean transportation intermediary licensed by the Commission as a "non-vessel ocean carrier (NVOCC)"<sup>1</sup>. Complainants assert that Respondent Int'l TLC is duly registered under

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<sup>1</sup> The Shipping Act of 1984 and Commission rules refer to "non-vessel-operating common carriers" or NVOCCs. No such term "non-vessel ocean carrier" exists in the Commission's regulations or the Shipping Act of 1984.

the law of the state of Washington and is an ocean transportation intermediary licensed since July 24, 2008 as an NVOCC.

Complainants assert that Respondents: failed to return a damaged container in Respondents' custody to Complainants, and subsequently shipped the damaged container; failed to provide proper bills-of-lading at the time of shipment and provided the bill-of-lading to Complainants five months after shipping, unilaterally changed the bill-of-lading to name an individual other than Complainants as exporter and consignee; demanded "false, excessive and unearned shipping charges"; and liquidated three of five containers.

Through these actions, Complainants allege that Respondent Int'l INC engaged in practice as an ocean transportation intermediary without a license and accepted cargo for an unlicensed ocean transportation intermediary in violation of Sections 8 and 19 of the Shipping Act and in violation of Section 10(b)(2)(11). Complainants allege that Respondents Limco and Int'l TLC violated Sections 8 and 10(b)(2)(A) of the Shipping Act by "providing services not in accordance with then published tariff and service contract" rates.

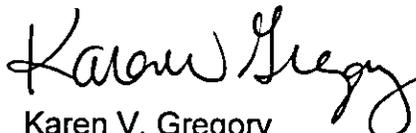
Complainants allege that Respondents violated section 10(b)(4)(D) of the Shipping Act because they "provided a service and engaged in unfair practice in their loading or unloading of freight." Complainants allege that Respondents violated Sections 10(b)(4)(E) and 10(b)(10) of the Shipping Act by "unreasonably refusing to deal or negotiate and settle Complainants' claims for damages" to one container and loss of all three containers. Complainants also allege that Respondents Limco and Hapag-Lloyd "knowingly and willingly accepted cargo from an ocean transportation intermediary (Int'l TLC) that did not have a bond, insurance, or other surety from May 9, 2008 to July 23, 2008 in violation of Section 10(b)(11)(12) of the Shipping Act." Finally, Complainants allege that Respondents Limco and Int'l TLC "knowingly disclosed

valuable information concerning the nature, kind, quantity and destination of property delivered to them by Complainants to a third party identifying Complainants as shipper and consignee, without Complainants' consent in violation of Section 10(b)(13) of the Shipping Act.”

Complainants request that the Commission order Respondents: (1) to answer the charges made by Complainants; (2) to pay to Complainants \$500,000 for reparations for actual injury and \$500,000 for additional damages; (3) to pay any other damages to Complainants that may be determined just and proper; (4) to pay Complainants' attorney fees and costs incurred; and take any such other action or provide other relief as the Commission deems just and proper.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 C.F.R. 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon 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 matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Pursuant to the further terms of 46 C.F.R. 502.61, the initial decision of the presiding officer in this proceeding shall be issued by July 14, 2011 and the final decision of the Commission shall be issued by November 14, 2011.

  
Karen V. Gregory  
Secretary