(S E R V E D)
(AUGUST 20, 2010)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 10 - 09

SINICWAY INTERNATIONAL LOGISTICS LTD.
POSSIBLE VIOLATIONS OF SECTIONS 10(a)(1) AND 10(b)(2) OF THE SHIPPING ACT OF 1984

ORDER OF INVESTIGATION AND HEARING

Sinicway International Logistics Ltd. (Sinicway) is a company based in the People's Republic of China, providing service as a non-vessel-operating common carrier (NVOCC). Sinicway registered with the FMC as a foreign-based NVOCC in April 2009. Sinicway's reported address is 910 The Panorama, 53 Huangpu Road, Shanghai, PRC 200080.

Sinicway currently holds itself out as a NVOCC pursuant to its automated tariff No. 022155-001. Its tariff is maintained by Distribution Publications, Inc., and is published electronically at https://www.dpiusa.com. Sinicway currently maintains a NVOCC bond with Navigators Insurance Company, 6 International Drive, Rye Brook, NY, 10573.

It appears that after registering with the FMC in April 2009, Sinicway originated and substantially participated in an ongoing practice of misdescribing cargo to the transporting ocean common carrier. With respect to those shipments apparently misdescribed, Sinicway was identified as the shipper signatory to various service contracts with ocean common carriers[1] and as the person for whose account the transportation was being provided. Contemporaneous documentation such as the commercial invoice or the

[1]As relevant herein, these contracts include, but are not limited to:
OOCL SC # PE094178 OOCL SC # PE104178
MOL SC # 4199876A09 MOL SC # 4199896A10.

NVOCC house bill of lading reflect that shipments declared to the vessel operator as "bedding" or "household goods" actually were loaded with garments or with miscellaneous other commodities. Due to the difference between the rate Sinicway paid to ship the misdescribed goods and the rate at which the cargo should have moved under the various service contracts used by Sinicway, it appears that Sinicway obtained lower than applicable rates for these shipments, in violation of section 10(a)(1) of the Shipping Act.

It also appears that for some of these same shipments, Sinicway acted as a common carrier in relation to its NVOCC customers and issued its own NVOCC bill of lading. The electronic tariff published by Sinicway appears to indicate that only Cargo NOS rates were in effect since July 17, 2009. However, as indicated by Sinicway's invoices, the rate assessed by Sinicway to its NVOCC customers appears to differ substantially from its published Cargo NOS rates. Accordingly, it appears that Sinicway provided service that was not in accordance with its published tariff, in violation of 10(b)(2) of the Shipping Act.

NOW THEREFORE, IT IS ORDERED, That pursuant to sections 10, 11, and 13 of the Shipping Act, 46 U.S.C. §§ 41102, 41104, and 41107-41109, an investigation is instituted to determine:

1) whether Sinicway International Logistics Ltd. violated section 10(a)(1) of the Shipping Act by obtaining transportation at less than the rates and charges otherwise applicable by an unjust or unfair device or means;

2) whether Sinicway International Logistics Ltd. violated section 10(b)(2) of the Shipping Act by providing service other than at the rates, charges, and classifications set forth in its published NVOCC tariff or applicable NSA;

3) whether, in the event violations of sections 10(a)(1), and 10(b)(2) of the Shipping Act are found, civil penalties should be assessed against Sinicway International Logistics Ltd. and, if so, the amount of penalties to be assessed;

4) whether, in the event violations of section 10(b)(2) of the Shipping Act are found, the tariff(s) of Sinicway International Logistics Ltd. should be suspended; and

5) whether, in the event violations are found, an appropriate cease and desist order should be issued.

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 C.F.R. § 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 Sinicway International Logistics Ltd. is designated Respondent 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 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 C.F.R. § 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 C.F.R. § 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 August 22, 2011 and the final decision of the Commission shall be issued by December 20, 2011.

By the Commission.

Karen V. Gregory
Secretary