

BEFORE THE
FEDERAL MARITIME COMMISSION

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OFFICE OF THE SECRETARY
FEDERAL MARITIME COMM

Docket No. 09 - 01

MITSUI O.S.K. LINES LTD.

COMPLAINANT

v.

GLOBAL LINK LOGISTICS, INC., OLYMPUS PARTNERS, L.P., 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

**COMPLAINANT MITSUI O.S.K. LINES LTD.'S FIRST REQUEST FOR ADMISSIONS,
FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS TO RESPONDENTS**

DEFINITIONS

- A. The terms "Global Link Logistics" and "Global Link," refer to Global Link Logistics, Inc. and all current and former employees and agents thereof.
- B. The term "Olympus Respondents" means Olympus Partners, L.P., Olympus Growth Fund III, L.P., Olympus Executive Fund, L.P., Louis J. Mischianti, David Cardenas, and/or Keith Heffernan, and all current and former employees and agents thereof.
- C. The term "CJR Respondents" means CJR World Enterprises, Inc. and/or Chad J. Rosenberg, and all current and former employees and agents thereof.

D. The terms "Respondent," "you," and "your" mean each Respondent named in the Complaint and all current and former employees and agents thereof.

E. The term "Complaint" means the Complaint filed by MOL in this Docket.

F. The terms "Complainant" and "MOL" refer to Mitsui O.S.K. Lines, Ltd.

G. The words "document" and "documents" shall be defined in the customary and broad sense to include all written, electronic, digital, or photographic materials that are now or were formerly in each Respondent's possession, custody or control, whether stored in paper files or electronically, including without limitation: reports, memoranda, correspondence, electronic mail, excel charts, records, written policies, notes, summaries or records of conversations or meetings, telephone messages, drafts of any documents, copies of any document with added notations or comments, photographs, and sound or video recordings.

H. "Describe" means provide a detailed statement of all things relating to or affecting the particular subject to be described including, but not limited to, dates and places and the names and addresses of any persons involved. With respect to documents, reports, or other written matter, the term "describe" also includes a detailed statement of the substance of the facts and opinions made with reference to or stated in each document, report, or written matter.

I. "Identify" or to give the "identity of," shall mean:

(1) In the case of a natural person, to state:

(a) Full name;

(b) Last known address;

(c) Employer or business affiliate; and

(d) Occupation and business position (including title) held;

(2) In the case of a company or other business entity, to state:

- (a) Name;
 - (b) Nature of the business entity;
 - (c) Business address; and
 - (d) Partners and affiliates, if any;
- (3) In the case of a document, to state:
- (a) Identity of the person(s) preparing it and of the sender(s);
 - (b) Its title or, if it has no title, a description of the general nature of its subject matter;
 - (c) The identity of the addressee(s), if any;
 - (d) Its date of preparation;
 - (e) Location of the original, or, if there is no original, the location of all copies, and identity of present custodian;
 - (f) Whether or not the document is claimed to be privileged; and
 - (g) The identity of the person(s) who can identify it;
- (4) In the case of an oral statement or communication, to state:
- (a) The maker and recipients of the oral statement or communication;
 - (b) Where and when the oral statement or communication was made;
 - (c) The identity of all persons present when the oral statement or communication was made;
 - (d) The mode of communication;
 - (e) The subject matter of the oral statement or communication;
 - (f) The complete contents of the statement or communication.

J. The term “FMC Rules of Practice and Procedure” means the rules of practice and procedure set forth in 46 C.F.R. Part 502.

K. The term "person" means and includes natural persons, governmental entities and agencies, proprietorships, partnerships, corporations, and all other forms of organization or association.

L. The term "split delivery" means the practice referred to by the Respondents in documents filed with the FMC in Docket No. 08-07 as "split delivery," "re-routing," and/or other similar terms, pursuant to which cargo is booked with an ocean carrier to one destination and then re-routed to a different destination without first obtaining the ocean carrier's consent and/or paying any applicable fees and charges.

GENERAL INSTRUCTIONS

A. Each interrogatory and request for admission must be answered separately and specifically.

B. Words used herein in the singular number shall include the plural number and words used in the plural number shall refer to the singular number as well. Gender is to be wholly disregarded, the neuter referring as well to the male and female and the male referring to the female and neuter.

C. The conjunction "and" is defined to include the disjunctive "or," and vice versa.

D. If, in answering these interrogatories and responding to these requests for admissions and requests for production of documents, or any part of them, the party responding encounters any ambiguity in construing either the discovery request or a definition or instruction relevant to the inquiry contained within the discovery request, the party shall set forth the matter deemed "ambiguous" and set forth the construction chosen or used in answering the discovery request.

E. Unless otherwise specified, these discovery requests shall be deemed continuing so as to require additional responses if new or further information is obtained subsequent to the time any answers or documents are served, as though expressly requested by separate discovery requests.

F. Wherever a discovery request calls for the identification or production of a document or non-written communication claimed by an answering party to be privileged, separately identify each such document or non-written communication by author, date, the person or persons to whom it was addressed, the person or persons to whom it was sent, the length of the document, and a description of the type of subject matter included in the document. State the type of privilege claimed and the complete factual basis for the assertion of such claim.

G. In each instance where you deny knowledge or information sufficient to answer an interrogatory or any part thereof, describe the effort made to locate information to answer such interrogatory or part thereof, and identify each person, if any, known or believed to have such knowledge.

H. If you produce documents for inspection you shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request. In the event that you produce documents that are identified in connection with one or more interrogatories or requests for production of documents, you shall label them to reflect each interrogatory and request for production of documents to which they respond.

I. If any document that you would have produced was, but no longer is, in your present possession or subject to your control or is no longer in existence, state whether such document is: (1) missing or lost; (2) destroyed; (3) transferred to others; or (4) otherwise disposed of. In any such instance, set forth the surrounding circumstances and any authorization

for such disposition and state the approximate date of any such disposition, and, if known, the present location and custodian of such document.

J. Answers to these interrogatories and requests for admissions are to be based upon all knowledge or information available to you, including, but not limited to, all knowledge or information derivable from business or other records, all knowledge or information possessed by any employee, agent, attorney, expert witness, consultant, or other advisor or other persons subject to your instruction, direction, or control.

K. If you cannot answer certain of the following discovery requests in full after exercising due diligence to secure the information to do so, answer to the extent possible and explain your inability to provide a complete answer. State whatever information or knowledge you have about the unanswered portion of any request.

L. Where an objection is made to any discovery request or sub-part thereof, pursuant to FMC Rules of Practice and Procedure, the objection shall state with reasonable specificity all grounds for the objection.

M. Each request for production of documents contained herein extends to all documents in your possession, custody or control, or the possession, custody or control of anyone acting on your behalf, including counsel, representatives, agents, servants, employees, investigators or consultants.

N. These requests cover the period beginning January 1, 2002 until the present, and shall be deemed to be continuing in nature so as to require updated responses as appropriate up to the trial of this matter.

O. Electronic documents shall be produced in the form of a TIF with metadata attached. In addition, all electronic data shall be preserved in native format without alteration or deletion of data, including metadata.

COMPLAINANT'S FIRST REQUESTS FOR ADMISSIONS

Pursuant to FMC Rules of Practice and Procedure Rule 207, Complainant MOL requests each Respondent, within thirty (30) days after service of these requests, to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility, which may be interposed at trial.

Request for Admission No. 1: Admit that Global Link has booked transportation of cargo with MOL to U.S. inland destinations with no intention of having cargo delivered to the booked destinations.

Request for Admission No. 2: Admit that by booking cargo to false destinations, Global Link obtained ocean transportation for property at rates that were less than the contract and/or tariff rates applicable to the destinations where the cargo was actually delivered.

Request for Admission No. 3: Admit that Global Link has diverted cargo booked with MOL without requesting permission from MOL or notifying MOL of the diversion, and without paying the applicable diversion fees or charges to MOL.

Request for Admission No. 4: Admit that Global Link booked cargo with MOL to destinations having lower contract and/or tariff rates and then diverted the cargo to destinations having higher contract and/or tariff rates.

Request for Admission No. 5: Admit that Global Link took actions to conceal the diversions described in Requests 1-4 above from MOL and to conceal the true destinations of the cargo from MOL.

Request for Admission No. 6: Admit that Global Link's split delivery practice resulted in MOL being underpaid for transportation.

Request for Admission No. 7: Admit that some or all of the Olympus Respondents had full knowledge of the actions taken by Global Link to divert cargo in the manner described in Requests 1, 3, 4, and 5 above.

Request for Admission No. 8: Admit that some or all of the CJR Respondents had full knowledge of the actions taken by Global Link to divert cargo in the manner described in Requests 1, 3, 4, and 5 above.

COMPLAINANT'S FIRST SET OF INTERROGATORIES

Pursuant to FMC Rules of Practice and Procedure Rule 205, Complainant MOL by and through its undersigned counsel, hereby requires each Respondent to answer fully and separately in writing, under oath, the following interrogatories within thirty (30) days after the date of service.

Interrogatory No. 1: For each request in Complainant's First Requests for Admissions which is denied, denied in part, or qualified:

- (a) set forth in detail all of the reasons why you deny the request, deny the request in part, or have qualified your answer; and
- (b) identify all documents that support your denial of the request, denial of the request in part, or qualification of your answer.

Interrogatory No. 2: For each request or part of each request in Complainant's First Request for Admissions to which you state that you cannot truthfully admit or deny the request:

(a) set forth in detail all reasons why you cannot truthfully admit or deny the request;
and

(b) describe in detail the inquiry you have made to enable yourself to admit or deny
the request.

Interrogatory No. 3: If you admitted, in whole or in part, Requests for Admission 7 or 8
above, identify each Respondent with knowledge and describe the nature of the knowledge
possessed.

Interrogatory No. 4: Identify all persons whom you know, or have any reason to
believe, have knowledge of any facts relevant to the issues in this proceeding, and provide each
person's name, address, telephone number, their association with Global Link and/or you, their
job title and a general description of the facts known by each such person.

Interrogatory No. 5: Identify each person that has been designated as a qualifying
individual for Global Link pursuant to FMC licensing requirements since 2002 and specify the
dates during which each such person was so designated.

Interrogatory No. 6: For each expert witness you expect to call to testify on your
behalf in the trial of this case, state:

- (a) the expert's name;
- (b) the expert's address and telephone number;
- (c) the subject matter on which the expert is expected to testify;
- (d) the substance of the facts and opinions regarding which the expert is expected to
testify and the grounds for each such opinion; and

(e) the identity of all consulting experts whose opinions, beliefs, or theories form the basis, in whole or in part, for the testifying expert's opinion or will otherwise be relied upon by the testifying expert.

Interrogatory No. 7: Explain in detail the procedures used by Global Link to book and deliver cargo pursuant to the split delivery practice.

Interrogatory No. 8: State the date, or a reasonable estimation thereof, on which Global Link began the split delivery practice and, if the practice has ceased, state the date, or a reasonable estimation thereof, on which the practice ceased. If the practice has ceased, explain the reason for the cessation.

Interrogatory No. 9: Describe all documents that would be created and/or used by Global Link as part of a typical split delivery booking.

Interrogatory No. 10: Identify all locations that were used by Global Link as false destinations under the split delivery practice.

Interrogatory No. 11: Explain how the locations identified in response to Interrogatory No. 10 were chosen.

Interrogatory No. 12: Identify and describe the amount and nature of the cost savings that Global Link achieved through the use of split deliveries.

Interrogatory No. 13: Identify all MOL bills of lading for which Global Link provided false destination information. For each bill of lading identified, provide the actual final destination for the cargo.

Interrogatory No. 14: Identify all trucking companies used by Global Link for split deliveries. For each trucking company state which locations they were used to divert cargo from and to.

Interrogatory No. 15: Identify all ocean transportation intermediaries that you contend engage in the practice of split deliveries.

Interrogatory No. 16: Identify and describe all communications between and among Global Link employees, Olympus Respondents, and/or CJR Respondents regarding the split delivery practice.

Interrogatory No. 17: Identify and describe all external communications between Global Link employees (including former employees) and third parties, including but not limited to MOL and other ocean carriers, regarding the split delivery practice.

Interrogatory No. 18: Identify each person who participated in or assisted with the preparation of responses to these interrogatories.

COMPLAINANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to FMC Rules of Practice and Procedure Rule 206, Complainant MOL, by and through its undersigned counsel requests that each Respondent produce the following documents for inspection and copying within thirty (30) days of service of this Request at the offices of Sher & Blackwell, LLP, Suite 900, 1850 M Street, N.W., Washington, D.C. 20036.

Document Request No. 1: All documents relied upon in responding to the requests for admissions and/or interrogatories.

Document Request No. 2: All reports prepared in connection with or relating to the split delivery practice, including all reports showing the difference in costs between the booked and actual destinations.

Document Request No. 3: All documents, including all bills of lading (whether prepared by MOL or Global Link), invoices, delivery orders, correspondence, written policies, notes, or other materials relating to split deliveries of cargo transported by MOL.

Document Request No. 4: All documents provided to the Federal Maritime Commission in connection with Global Link's split delivery practice.

Document Request No. 5: All pleadings filed in connection with arbitration proceedings between Global Link and the Olympus Respondents and CJR Respondents. (AAA Case No. 14 125 Y 01447 07) ("the Arbitration").

Document Request No. 6: Transcripts of all depositions conducted in connection with the Arbitration.

Document Request No. 7: All expert reports obtained in connection with the Arbitration.

Document Request No. 8: To the extent not covered above, all documents produced during the Arbitration concerning the split delivery practice.

Document Request No. 9: All rulings, decisions or judgments issued in connection with the Arbitration.

Document Request No. 10: All reports, summaries, or other documents prepared, reviewed, relied upon, or which may be reviewed or relied upon, by an expert whom you expect to call to testify in this case.

Document Request No. 11: The resume of any person you may call as an expert witness at a deposition or in the trial of this matter.

Document Request No. 12: All documents concerning any fee arrangements, agreements for compensation or bills and invoices concerning any person you may call as an expert witness at a deposition or in the trial of this matter.

Respectfully submitted,

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