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BEFORE THE
FEDERAL MARITIME COMMISSION

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FEDERAL MARITIME COMMISSION

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

**GLOBAL LINK LOGISTICS, INC.'S VERIFIED ANSWER AND
AFFIRMATIVE DEFENSES TO MITSUI O.S.K. LINES LTD.'S
COMPLAINT, COUNTERCLAIM AND CROSS CLAIMS**

Respondent Global Link Logistics, Inc. ("Global Link") hereby submits its Answer and Affirmative Defenses to Complainant Mitsui O.S.K. Lines Ltd.'s ("MOL") Complaint as follows:

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.

ANSWER: Global Link is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph IA.

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

ANSWER: Global Link is without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph IB.

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").

ANSWER: Global Link admits the allegations in paragraph IIA.

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.

ANSWER: Global Link admits that OGF is a Seller as defined in the Stock Purchase Agreement dated May 20, 2006. Global Link is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph IIB.

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.

ANSWER: Global Link admits that OEF is a Seller as defined in the Stock Purchase Agreement dated May 20, 2006. Global Link is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph IIC.

D. Respondent Olympus Partners L.P. ("Olympus Partners") 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. Olympus Partners is a private equity firm affiliated with OGF and OEF.

ANSWER: Global Link admits that Olympus Partners is a private equity firm affiliated with OGF and OEF. Global Link is without knowledge or information sufficient to

form a belief as to the truth of the remaining allegations in paragraph IID.

E. Respondents Louis J. Mischianti, David Cardenas, and Keith Heffernan are the 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.

ANSWER: Global Link admits that Louis J. Mischianti, David Cardenas, and Keith Heffernan are principals of Olympus Partners and that Mischianti, Cardenas and Heffernan signed the Stock Purchase Agreement dated May 20, 2006 as Sellers. Global Link is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph IIE.

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.

ANSWER: Global Link admits that CJR is a Seller as defined in the Stock Purchase Agreement dated May 20, 2006. Global Link is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph IIF.

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.

ANSWER: Global Link admits that Chad Rosenberg was an officer, director, and sole shareholder of CJR from at least 2003 through the closing of the 2006 Stock Purchase Agreement. Global Link also admits that Rosenberg was an officer and director of Global Link prior to the 2006 sale and signed the Stock Purchase Agreement dated May 20, 2006 as a Seller. Global Link is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph IIG.

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 CFR. § 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.

ANSWER: To the extent the paragraphs in section III purport to characterize the nature of the action, no response is required. To the extent a response is required, Global Link denies the allegations. Global Link denies the remaining allegations in section III.

IV. Statement of Facts and Matters Complained Of

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

ANSWER: Global Link admits the allegations in paragraph IVA.

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.

ANSWER: Global Link admits the allegations in paragraph IVB.

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.

ANSWER: Global Link admits that it entered into service contracts with MOL and states that the service contracts are the best evidence of their contents. Global Link further admits that the service contracts were amended numerous times as reflected in paragraph IVC.

Global Link neither admits nor denies the remaining allegations of paragraph IVC insofar as they purport to state conclusions of law, as to which no response is required.

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.

ANSWER: Global Link admits that it entered into service contracts with MOL and states that the service contracts are the best evidence of their contents. Global Link neither admits nor denies the remaining allegations of paragraph IVD insofar as they purport to state conclusions of law, as to which no response is required.

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."

ANSWER: Global Link admits that historically Global Link engaged in a practice variously described as "split routing," "mis-booking," and "re-routing" by booking cargo to false inland destinations while intending to deliver the cargo to different inland destinations. Global Link further states that based on this conduct, Global Link initiated an arbitration proceeding before the American Arbitration Association to recover damages for losses sustained as the result of fraud and breaches of contractual representations by Sellers in connection with the 2006 Stock Purchase Agreement. Global Link denies that it defrauded MOL.

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

ANSWER: Global Link admits Respondents, Rosenberg, CJR, Cardenas, Heffernan, OEF, OGF and Olympus Partners each possessed knowledge of Global Link's "split routing." Global Link is without knowledge or information sufficient to form a belief as to the remaining

allegations of IVF.

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.

ANSWER: Global Link admits that, in connection with the “split routing” practice, Global Link historically participated in conduct as alleged in paragraph IVG. Global Link denies that MOL was not aware of the practices described in paragraph IVG.

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.

ANSWER: Global Link denies the allegations in paragraph IVH.

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.

ANSWER: Global Link admits that, in connection with the “split routing” practice, Global Link historically diverted the cargo without submitting a formal request pursuant to the service contract and without paying a difference in rates. Global Link denies the remaining allegations in paragraph IVI.

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.

ANSWER: Global Link admits that in some instances the historical rates paid to MOL for transportation to the disclosed location were less than the rates to the actual location. Global

Link further admits that one of the reasons for the historical “split routing” practice was to reduce Global Link’s costs. Global Link denies the remaining allegations in paragraph IVJ.

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.

ANSWER: Global Link admits that historically certain Global Link employees created or facilitated false invoices, addresses, and bills of lading as part of the “split routing” practice. Global Link further admits that, at one time, Global Link employees were taught to locate real addresses in the false destination cities in an effort to avoid communicating to certain ocean carriers that the destinations provided were false. Global Link denies the remaining allegations in paragraph IVK.

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.

ANSWER: Global Link admits that one of the purposes of the historical Global Link “split routing” practice was to reduce Global Link’s costs. Global Link denies the remaining allegations in paragraph IVL.

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.

ANSWER: Global Link admits that it subpoenaed MOL for testimony regarding the arbitration respondents’ allegations in support of certain defenses to Global Link’s claims –

particularly respondents' allegation that MOL and certain senior MOL executives knew about, condoned, and even encouraged the "split routing" practice. MOL did not comply with the subpoena or present a witness to address the respondents' allegations. Global Link further admits that counsel for MOL requested information about specific MOL/Global Link transactions involving "split routing," and that Global Link has not provided responsive information. Global Link denies the remaining allegations in paragraph IVM, and denies that MOL is entitled to compensation.

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).

ANSWER: Global Link neither admits nor denies the allegations of paragraph VA insofar as they purport to state conclusions of law, as to which no response is required.

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).

ANSWER: Global Link neither admits nor denies the allegations of paragraph VB insofar as they purport to state conclusions of law, as to which no response is required.

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.

ANSWER: Global Link neither admits nor denies the allegations of paragraph VC insofar as they purport to state conclusions of law, as to which no response is required.

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.

ANSWER: Global Link neither admits nor denies the allegations of paragraph VIA insofar as they purport to state conclusions of law, as to which no response is required. Global Link denies the remaining allegations in paragraph VIA.

VII. Prayer for Relief

A. **Statement Regarding ADR Procedures:** Alternative dispute resolution 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.

ANSWER: Global Link admits that alternative dispute resolution procedures were not used prior to filing the complaint. Global Link is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph VIIA.

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.

ANSWER: The statements contained in paragraph VIIB set forth Claimant's Requested Relief, to which no answer is required. To the extent a response is required, Global Link denies that Claimant is entitled to the requested relief.

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

ANSWER: The statements contained in paragraph VIIC set forth Claimant's Requested Relief, to which no answer is required. To the extent a response is required, Global Link denies that Claimant is entitled to the requested relief.

AFFIRMATIVE DEFENSES

1. The Complaint is barred by the statute of limitations.

2. The Complaint is barred by estoppel, in that MOL knowingly participated in, and failed to object to, the alleged “split routing,” “mis-booking,” and “re-routing” practices.

3. The Complaint is barred by waiver, in that MOL knew of, participated in, and failed to object to the “split routing,” “mis-booking,” and “re-routing” practices.

4. The Complaint is barred by MOL’s unclean hands in that MOL knew of, approved, and benefited from the alleged “split routing,” “mis-booking,” and “re-routing” practices. MOL in fact sought to continue the practices even after the sale of Global Link in 2006, because they preferred not to be bothered with negotiating a multiplicity of door points.

5. The Complaint is barred by the doctrine of *in pari delicto*, in that MOL knew of, failed to object to, approved of and benefited from the alleged “split routing,” “mis-booking,” and “re-routing” practices.

6. To the extent that Global Link is found liable for any of the allegations set forth in the Complaint, it is entitled to indemnification, and at a minimum, contribution from Olympus Growth Fund III, L.P., Olympus Executive Fund, L.P., CJR World Enterprises, Inc., and/or Chad J. Rosenberg because the acts alleged were initiated and carried out by those individuals and entities.

7. Global Link hereby gives notice that it intends to rely on such other affirmative defenses as may become available or apparent in the course of discovery and, therefore, reserves its right to amend the Answer to assert such defenses.

GLOBAL LINK’S COUNTERCLAIM AGAINST MITSUI O.S.K. LINES LTD.

Global Link hereby submits its Counterclaim against MOL as follows:

I. Counter Complainant

Global Link Logistics, Inc. (“Global Link”) is a Delaware corporation, licensed by the Federal Maritime Commission (“Commission”), that operates as a non-vessel operating common

carrier. It is an ocean transportation intermediary. Global Link's principal place of business is at 1990 Lakeside Parkway, Suite 300, Tucker, Georgia. It is the surviving entity referred to herein as Global Link 2006 and created pursuant to the May 20, 2006 Stock Purchase Agreement.

II. Counter Respondent

The Counter Respondent, 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.

III. Jurisdiction

The Counterclaim is being filed pursuant to section 11(a) of the Shipping Act, 46 U.S.C. § 41301. Global Link seeks reparations and indemnification for the injuries caused it by MOL as a result of its violation of Sections 10(b)(1) and (2)(A), 10(d)(1), and 10(b)(4) and (8) of the Shipping Act, 46 U.S.C. §§ 41104(1) and (2)(a), 41102(c), 41104(4) and (8).

IV. Statement of Facts

1. Global Link and MOL began doing business on or about May 11, 2004.
2. Since May of 2004, MOL has entered into several service contracts with Global Link.
3. During the time MOL and Global Link were performing under these service contracts, MOL was aware of Global link's split routing practices and encouraged the continuation of these practices rather than negotiating rates to door points served by Global Link.
4. During the time MOL and Global Link were performing under these service contracts, MOL also failed to have suitable rates on file in its tariff for the commodities Global Link was shipping to the door points served by Global Link. As a result, MOL's Cargo NOS rates may be applied to Global Link's shipments in the event the Commission finds Global Link

liable for the violations alleged in MOL's Complaint.

V. Violations of the Shipping Act of 1984

MOL's knowledge and encouragement of Global Link's split routing practices constituted a violation of Sections 10(b)(1) and (2)(A) of the Shipping Act, 46 U.S.C. §§ 41104(1) and 2(A) and also constituted an unjust and unreasonable practice in violation of Section 10(d)(1) of the Shipping Act, 46 U.S.C. § 41102(c). MOL's failure to have suitable rates on file in its tariff for Global Link's shipments constitutes an unfair and unjustly discriminatory practice in violation of Section 10(b)(4) of the Shipping Act, 46 U.S.C. § 41104(4) and an undue and unreasonable prejudice or disadvantage to Global Link in violation of Section 10(b)(8) of the Shipping Act, 48 U.S.C. § 41104(8).

VI. Injury to Global Link

Global Link suffered harm as a result of MOL's actions and is, therefore, entitled to indemnification and reparations for its losses from MOL.

VII. Prayer for Relief

WHEREFORE, Global Link prays that MOL be required to answer the charges in this Counter-Complaint; that after due hearing and investigation an order be made commanding MOL to pay Global Link 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 under the circumstances.

**GLOBAL LINK'S CROSS CLAIMS AGAINST
OLYMPUS GROWTH FUND III, L.P., OLYMPUS EXECUTIVE FUND, L.P., CJR
WORLD ENTERPRISES, INC., AND CHAD J. ROSENBERG**

Global Link incorporates paragraphs IA through VIIC above as if fully set forth herein. Pursuant to section 11(a) of the Shipping Act, 46 U.S.C. § 41301, and Rule 13(g) of the Federal

Rules of Civil Procedure, Respondent and Cross Complainant Global Link Logistics, Inc. (“Global Link”), for its claims against Respondents and Cross Respondents Olympus Growth Fund III, L.P. (“OGF”), Olympus Executive Fund, L.P. (“OEF”), CJR World Enterprises, Inc. (“CJR”), and Chad J. Rosenberg (“Rosenberg”), collectively (“Cross Respondents”), alleges as follows:

SUMMARY

1. MOL alleges that Global Link and other Respondents engaged in a fraudulent scheme, referred to herein as “split routing,” to obtain ocean transportation for property for less than the rates and/or charges that would otherwise apply, violating Sections 10(a)(1) and 10(d)(1) of the Shipping Act. MOL further alleges that Global Link and other Respondents provided false information to MOL, violating 46 C.F.R. § 515.31(e). To the extent alleged conduct violating the Shipping Act or 46 C.F.R. § 515.31(e) supports MOL’s claim for damages, that conduct was directed by and benefited Cross Respondents, not Global Link.

2. Global Link’s current management and owners obtained their interests in the company after purchasing those interests from “Sellers” as defined in the May 20, 2006 Stock Purchase Agreement (“SPA”). Cross Respondents OGF, OEF, and CJR are “Sellers” pursuant to the SPA. Cross Respondent Rosenberg is the alter-ego and guarantor of CJR, and served as the director and CEO of Global Link prior to the 2006 sale to its current owners.

3. On or about August 31, 2007, Global Link and its parent Golden Gate Logistics, Inc. initiated an arbitration proceeding before the American Arbitration Association (“AAA”) against Cross Respondents based on the Sellers’ and prior management’s concealment of and failure to disclose the “split routing” practice prior to the 2006 sale. On February 2, 2009, a three-member Arbitration Panel (“AAA Panel”) awarded Global Link and its parent company a

Partial Final Award of \$12 million for fraud and breach of warranty against Cross Respondents OGF, OEF, and CJR, and the other respondents named therein. The AAA Panel then awarded Global Link prejudgment interest, costs, and expenses, raising the Final Award to \$16,202,126.47.

4. The AAA Panel's Award demonstrates that (1) the Cross Respondents and their agents instituted, directed, and benefited from the "split routing" practice, and (2) the "split routing" practice was improperly concealed from the current owners and managers of Global Link by Cross Respondents and their agents. Further, as the AAA Panel held, the new owners and the surviving Global Link entity were not at fault; they instead "inherited a practice" from Cross Respondents and ended the practice as soon as was feasible. Accordingly, liability to third parties arising from the "split routing" practice, if any, properly lies with the Cross Respondents, and not with Global Link. If Global Link is found liable, however, Cross Respondents are liable to Global Link for fraud, contractual indemnification, or at a minimum, contribution.

THE PARTIES

5. Cross Complainant Global Link Logistics, Inc. ("Global Link") is a Delaware corporation with its principal place of business at 1990 Lakeside Parkway, Suite 300, Tucker Georgia. It is the surviving entity created pursuant to the May 20, 2006 Stock Purchase Agreement.

6. Cross Respondent Olympus Growth Fund III, L.P. ("OGF") is a private equity investment fund organized as a Delaware limited partnership. OGF is controlled by its general partner, OGP III, LLC, a Delaware limited liability company, on behalf of its investors, who are its limited partners, and is managed by Olympus Advisory Partners, Inc. OGF's principal place of business is Stamford, Connecticut. Between May 2003 and June 2006, OGF owned 74.9% of

the shares of Holdings, which it sold to Global Link as a "Seller" pursuant to the May 20, 2006 Stock Purchase Agreement. The Arbitration Panel found OGF liable to Global Link.

7. The AAA Panel found OGF liable to Global Link for breaches of warranty and for fraud related to "split routing."

8. Cross Respondent Olympus Executive Fund, L.P. ("OEF") is a private equity investment fund organized as a Delaware limited partnership. OEF is controlled by its general partner, OEF, L.P., a Delaware limited partnership, and is managed by Olympus Advisory Partners, Inc. OEF's principal place of business is Stamford, Connecticut. Between May 2003 and June 2006, OEF owned 0.49% of the shares of Holdings, which it sold to Global Link as a "Seller" pursuant to the May 20, 2006 Stock Purchase Agreement.

9. The AAA Panel found OEF liable to Global Link for breaches of warranty and for fraud related to "split routing."

10. Cross Respondent Chad J. Rosenberg ("Rosenberg") is a resident of Georgia. Rosenberg served as CEO of Global Link Logistics, Inc. until 2003, and as a Director and CEO from 2003 until 2006 when he sold his interest in the Company.

11. The AAA Panel found that Rosenberg improperly failed to disclose evidence of "split routing" to Global Link's purchasers.

12. Cross Respondent CJR World Enterprises, Inc. ("CJR") is a Florida corporation controlled by Rosenberg. CJR owned 20.64% of the shares of Holdings, which it sold to Global Link as a "Seller" pursuant to the May 20, 2006 Stock Purchase Agreement. The AAA Panel found CJR liable to Global Link for breaches of warranty and fraud related to "split routing."

13. Rosenberg completely dominates and controls CJR to such an extent that CJR has no independent existence, and is the alter ego of Rosenberg. Rosenberg is also the guarantor of

CJR under § 1.1.2 of Rosenberg's May 20, 2006 Release, Confidentiality, Non-Compete, and Non-Solicitation Agreement and § 10.10 of the May 20, 2006 Stock Purchase Agreement.

JURISDICTION

14. These Cross Claims are being filed pursuant to section 11(a) of the Shipping Act, 46 U.S.C. § 41301, and Rule 13(g) of the Federal Rules of Civil Procedure. To the extent the Commission finds Global Link liable for the actions alleged, Global Link seeks reparation and indemnification, or at a minimum contribution, for the injuries caused it by Cross Respondents as a result of their violations of the Shipping Act or 46 C.F.R. § 515.31(e).

APPLICABLE FACTS

15. As "Sellers," Cross Respondents OGF, OEF, CJR, and Rosenberg as CJR's alter-ego and guarantor, agreed to indemnify Global Link and its affiliates for breaches of certain representations in the May 20, 2006 Stock Purchase Agreement. These representations included:

a. A representation that the Company was "in compliance with all applicable laws and regulations of foreign, federal, state, provincial and local governments and all agencies thereof which affect the business, operations, assets or leased real properties of the Company or its Subsidiaries and to which the Company or its Subsidiaries may be subject (including the rules and regulations of the Federal Maritime Commission, the Shipping Act of 1984 . . .)."

b. A representation that the Financial Statements provided to Buyers "present fairly in all material respects the financial condition and results of operations of the Company and its Subsidiaries (taken as a whole) as of the times and for the periods referred to therein"

16. The Stock Purchase Agreement is a valid and binding contract, and Global Link and its affiliates fully performed pursuant to the contract.

17. Global Link and its parent, Golden Gate Logistics, Inc., initiated an arbitration proceeding against Cross Respondents and others by submitting a Demand for Arbitration to the AAA on or about August 31, 2007.

18. The arbitration parties subsequently conducted substantial documentary and deposition discovery, submitted pre-hearing briefs to the three-person AAA Panel, and submitted a Joint Statement of Undisputed Facts to the Panel. Seven days of hearings were held on October 20-24 and November 5-6, 2008. By agreement of the parties, all hearings took place in New York City. In addition, the parties submitted excerpts from fourteen depositions, including videotapes of eight depositions. After the conclusion of the hearings, the Panel requested certain documentary and other information, including proposed findings of facts and conclusions of law, as well as answers to certain legal questions. The final written submissions from the parties were sent to the Panel on November 24 and November 25, 2008. The Panel then heard oral closing arguments on December 12, 2008 and closed the record at that time.

19. On February 2, 2009 the Panel issued its 60-page Partial Final Award. The Panel's Partial Final Award resolved all claims asserted and submitted in the arbitration, except for the award of pre-judgment interest and the allocation of costs pursuant to the SPA. The Panel requested further briefing from the parties on those two issues. After receiving that further briefing from the parties, the Panel rendered its Final Award on March 15, 2009.

20. The AAA Panel's rulings and Awards are final adjudications and are fully binding on Cross Respondents as a matter of law.

21. The AAA Panel held that the practice of "split routing" violated FMC rule 515.31(e), and thus concluded that Section 4.15 of the Stock Purchase Agreement had been breached.

22. The AAA Panel further held that the Company's Financial Statements did not fairly present Global Link's financial position and results of operations for those periods in the absence of a disclosure of the "split routing" practice and its economic effects on those financial statements.

23. The AAA Panel also held that the Cross Respondents were liable to Global Link for fraud. Cross Respondents and other former officers of the company failed to disclose and concealed the "split routing" practice during due diligence. The Panel held that Rosenberg in particular failed to disclose the practice to Global Link's Buyers, even though he:

. . . attend[ed] the March 22 management presentation, the agenda for which contained several topics to which "split routing" was highly relevant, and he must have known that a discussion of those topics would be incomplete and misleading without an exposition of the "split routing" practice, its uses, variations and economic significance.

24. Cross Respondents OGF, OEF, CJR, and Rosenberg as CJR's alter-ego and guarantor, agreed to indemnify Global Link for "any losses, out-of-pocket costs or expenses, liabilities or other damages . . . suffer[ed] as a result of . . . any breach."

25. Further, Cross Respondents OGF, OEF, CJR, and Rosenberg as CJR's alter-ego and guarantor, agreed that any liability pursuant to the Stock Purchase Agreement indemnity provisions "shall be in addition to, and not exclusive of, any other liability that such party may have at law or equity based on such party's fraudulent acts or fraudulent omissions." Cross Respondents OGF, OEF, CJR, and Rosenberg as CJR's alter-ego and guarantor, also agreed no provisions of the Stock Purchase Agreement shall be deemed to limit "(i) the amounts of recovery sought or awarded in any [] claim for fraud, (ii) the time period during which a claim for fraud may be brought, or (iii) the recourse which the Buyer Indemnified Parties . . . may seek against a Seller"

**FIRST COUNTERCLAIM
(Indemnification for Breaches of Warranty and Fraud)**

26. Global Link repeats and realleges each of the allegations contained in paragraphs 1-21.

27. Global Link denies liability to MOL and denies that MOL has stated any claim for which relief may be granted. Nevertheless, if the Commission finds Global Link liable to MOL, Cross Respondents are in turn liable to Global Link for complete indemnification for any liability suffered by Global Link, including attorney fees and costs, pursuant to:

- (i) the terms of the May 20, 2006 Stock Purchase Agreement, and
- (ii) Delaware law, based on the Cross Respondents' and their agents' fraudulent concealment of the split routing practice, as established in the binding AAA arbitration among the Cross Respondents and Global Link.

WHEREFORE, Global Link respectfully requests the following relief:

a. The entry of a judgment awarding complete indemnification for any liability suffered by Global Link, including fees and costs, on the claims asserted in MOL's Complaint;

b. Post-judgment interest; and

c. Such further or additional relief as the Commission may deem just and appropriate.

**SECOND COUNTERCLAIM
(Contribution)**

28. Global Link repeats and realleges each of the allegations contained in paragraphs 1-21.

29. Global Link denies liability to MOL. If the Commission does find Global Link

liable, however, Global Link and Cross Respondents are jointly liable and Cross Respondents should be obligated to contribute payment for their respective shares of fault. Global Link will suffer damages if required to pay more than its proportionate share of liability.

WHEREFORE, Global Link respectfully requests the following relief:

a. The entry of a judgment awarding contribution in the amount of any payment by Global Link in excess of its share of liability, including fees and costs, on the claims asserted in MOL's Complaint;

b. Post-judgment interest; and

c. Such further or additional relief as the Commission may deem just and appropriate.

Dated: June 17, 2009

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By: 

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VERIFICATION

State of GEORGIA)
County of DeKalb) ss:
)
)

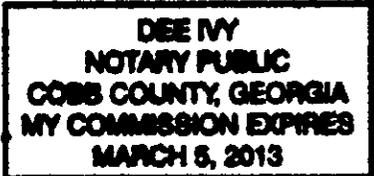
Christine Callahan, being first duly sworn on oath, deposes and says that she is the Chief Executive Officer of Respondent and is the person who signed the foregoing Answer, Affirmative Defenses, Counterclaim and Cross Claims; that she has read the Answer, Affirmative Defenses, Counterclaim and Cross Claims; and that the facts stated therein, upon information received from others, she believes to be true.

Christine Callahan
Christine Callahan

Subscribed and sworn to before me, a notary public in and for the State of Georgia, County of DeKalb this 16 day of June 2009.

[Signature]
NOTARY PUBLIC
For the State of GA
County of Colo

My Commission expires: March 5, 2013



CERTIFICATE OF SERVICE

I do hereby certify that I have delivered a true and correct copy of the foregoing document to the following addressees at the addresses stated by depositing same in the United States mail, first class postage prepaid, this 17th day of June 2009:

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A handwritten signature in black ink, appearing to read 'Carlos Rodriguez', is written over a horizontal line.