

(S E R V E D)
(JULY 31, 2007)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 07- 07

Embarque Puerto Plata, Corp. and Embarque Puerto Plata Inc. d/b/a Embarque Shipping and Embarque El Millon Corp., Estebaldo Garcia, Ocean Sea Line, Maritza Gil, Mateo Shipping Corp. and Julio Mateo – Possible Violations of Sections 8(a) and 19 of the Shipping Act of 1984 and the Commission’s Regulations at 46 C.F.R. Parts 515 and 520

ORDER OF INVESTIGATION AND HEARING

Embarque Puerto Plata, Corp. was incorporated in the State of New York on November 17, 1992, and subsequently dissolved by proclamation. Embarque Puerto Plata Inc. was incorporated in the State of New York on April 28, 2005. Embarque Puerto Plata, Corp. and Embarque Puerto Plata Inc. (“Embarque”) listed its office address as 1426 Cromwell Avenue, Bronx, New York, 10451. Recent indications, however, are that Embarque is currently operating at 381 East 169th Street, Bronx, New York 10456 by utilizing the different business names of Embarque Shipping and Embarque El Millon Corp. The principals of Embarque are Estebaldo Garcia and Hayda Garcia. Based on evidence available to the Commission, it appears that Embarque and Estebaldo Garcia have knowingly and willfully provided transportation services as a non-vessel operating common carrier (“NVOCC”) in the United States from at least May

2005 to the present without obtaining an ocean transportation intermediary (“OTI”) license from the Commission, without providing proof of financial responsibility, and without publishing a tariff showing its rates and charges.

Ocean Sea Line,¹ located at 146 West 170th Street, Bronx, New York 10452 was incorporated in New York on November 1, 2000 and dissolved by proclamation on June 30, 2004. Maritza Gil indicated in correspondence with the Commission that she is the president of Ocean Sea Line and owns 100% of the company stock. From at least September 2003 to the present, it appears Ocean Sea Line knowingly and willfully provided ocean transportation services as a freight forwarder with respect to numerous shipments without obtaining an OTI license from the Commission and without providing proof of financial responsibility. Since Ocean Sea Line is no longer a valid New York corporation, Ms. Gil appears to be operating Ocean Sea Line as a sole proprietorship.

Mateo Shipping, Corp. (“Mateo Shipping”) was incorporated in the State of New York on July 12, 2004. The business office of Mateo Shipping is located at 1441 Ogden Avenue, Bronx, New York 10452. In correspondence with the Commission, Julio Mateo represented himself to be the President of Mateo Shipping, as well as owner of 50% of the capital stock. Based on evidence available to the Commission, it appears that Mateo Shipping and Julio Mateo have knowingly and willfully provided transportation services as an NVOCC from at least October, 2005 through the present without obtaining an OTI license, without providing proof of financial responsibility and without publishing a tariff showing its rates and charges.

Section 8(a) of the 1984 Act, 46 U.S.C. § 40501(a), requires an NVOCC to maintain open to public inspection in an automated tariff system, tariffs showing its “rates, charges, classifications, rule, and practices.” The Commission’s regulations at 46 C.F.R. 520.3 affirm this

1. The company is listed as Ocean SeaLine in New York State corporate records.

statutory requirement by directing each NVOCC to notify the Commission, prior to providing transportation services, of the location and publisher of its tariffs by filing Form FMC-1.

Furthermore, Section 19(a) of the 1984 Act states that no person in the United States may act as an ocean transportation intermediary unless that person holds a license issued by the Commission. 46 U.S.C. § 40901. Section 19(b)(1) of the 1984 Act further requires all persons acting as ocean transportation intermediaries to furnish a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility. 46 U.S.C. § 40902. The Commission's regulations at 46 C.F.R. § 515.21 restate this obligation and mandate that the bond, proof of insurance, or other surety evidencing the financial responsibility of an OTI shall be in the amount of \$50,000 for freight forwarders and \$75,000 for NVOCCs.

Pursuant to section 13 of the 1984 Act, 46 U.S.C. § 41107(a), a party is subject to a civil penalty of not more than \$30,000 for each violation knowingly and willfully committed, and not more than \$6,000 for other violations.² Each shipment is a separate violation.

NOW THEREFORE, IT IS ORDERED, That pursuant to section 11(c) of the 1984 Act, 46 U.S.C. § 41302(a), an investigation is instituted to determine:

1) whether Embarque Puerto Plata, Corp. and Embarque Puerto Plata Inc. d/b/a Embarque Shipping and Embarque El Millon Corp., Estebaldo Garcia, Mateo Shipping, and Julio Mateo violated section 8 of the Act and the Commission's regulations at 46 C.F.R. 520 by operating as NVOCC's without publishing tariffs showing their rates and charges;

2) whether Embarque Puerto Plata, Corp. and Embarque Puerto Plata Inc. d/b/a Embarque Shipping and Embarque El Millon Corp., Estebaldo Garcia, Ocean Sea Line, Maritza Gil, Mateo Shipping, and Julio Mateo violated sections 19(a) and (b) of the 1984 Act and the

2. These penalty amounts reflect an adjustment for inflation pursuant to the Commission's regulations at 46 C.F.R. part 506.

Commission's regulations at 46 C.F.R. 515 by operating as OTIs in the United States trades without obtaining licenses from the Commission and without providing proof of financial responsibility;

3) whether, in the event one or more violations of the Act or the Commission's regulations are found, civil penalties should be assessed and, if so, the amount of the penalties to be assessed; and

4) whether, in the event violations are found, appropriate cease and desist orders should be issued against Embarque Puerto Plata, Corp. and Embarque Puerto Plata Inc. d/b/a Embarque Shipping and Embarque El Millon Corp., Estebaldo Garcia, Ocean Sea Line, Maritza Gil, Mateo Shipping, and Julio Mateo;

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 Embarque Puerto Plata, Corp. and Embarque Puerto Plata Inc. d/b/a Embarque Shipping and Embarque El Millon Corp., Estebaldo Garcia, Ocean

Sea Line, Maritza Gil, Mateo Shipping and Julio Mateo 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 C.F.R. 502.72;

IT IS FURTHER ORDERED, That all further notices, orders, and/or decisions issued by or on behalf of this Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on the 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 July 30, 2008 and the final decision of the Commission shall be issued by December 1, 2008.

By the Commission


Bryant L. VanBrakle
Secretary

