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FEDERAL MARITIME COMMISSION

MANELLI DENISON & SELTER PLLC
ATTORNEYS

June 10, 2009

Karen V. Gregory
Secretary
Federal Maritime Commission
Room 1046
800 North Capitol Street, N.W.
Washington, D.C. 20573

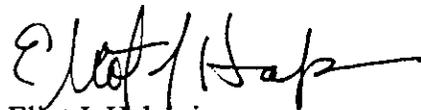
Re: Docket No. 08-06
Western Holding Group, Inc., Marine Express, Inc. and Corporación
Ferries del Caribe, Inc. v. Mayagüez Port Commission and Holland Group
Port Investment (Mayagüez), Inc.

Dear Ms. Gregory:

Enclosed for filing in the captioned proceeding are the original and fifteen copies of Holland Group Port Investment (Mayagüez), Inc.'s Answer to the Second Amended Verified Complaint and of Holland Group Port Investment (Mayagüez), Inc.'s, Counter-Complaint Against Western Holding Group, Inc., Marine Express, Inc. and Corporación Ferries del Caribe, Inc. The original signature pages will be submitted as soon as possible.

An additional copy of each document is enclosed. Please stamp each document "Received" and return it in the enclosed addressed and stamped envelope.

Sincerely,


Elliot J. Halperin

Enclosures

cc: Hon. Clay G. Guthridge

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
ANSWER TO THE SECOND AMENDED VERIFIED COMPLAINT

3. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 3 of the Second Amended Verified Complaint and on that basis denies the allegations therein, except that Holland Group denies the allegations in the penultimate sentence of paragraph 3.

II. Respondents

4. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 4 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

5. Holland Group admits the allegations in the first, second, third and last sentences of paragraph 5 of the Second Amended Verified Complaint and denies all other allegations in paragraph 5. The document referred to in paragraph 5 of the Second Amended Verified Complaint as the "Lease and Development Agreement" speaks for itself.

III. Jurisdiction

6. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in the second sentence of paragraph 6 of the Second Amended Verified Complaint and on that basis denies the allegations therein. Holland Group denies all other allegations in paragraph 6 (composed of two paragraphs) of the Second Amended Verified Complaint. Complainants sought a preliminary injunction against Holland Group and others in the United States District Court for the district of Puerto Rico. The magistrate judge found that complainants are not entitled to such relief and recommended that Complainants' request be denied. Magistrate Judge's Report and Recommendation on Motion for Preliminary Injunction, CIVIL 08-2335 (ADC), filed

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
ANSWER TO THE SECOND AMENDED VERIFIED COMPLAINT

April 17, 2009. See Attachment A to Holland Group Investment (Mayagüez), Inc.'s Answer to the Amended Verified Complaint, April 24, 2009; and that recommendation was adopted, *W. Holding Group, Inc. v. Mayagüez Port Comm'n*, No. 08-2335 (ADC) 2009 WL 1220625 (D.P.R. May 5, 2009). The magistrate judge subsequently recommended that Complainants' complaint in the district court be dismissed, Magistrate Judge's Report and Recommendation on Motion to Dismiss under Fed. R. Civ. P. 12(b)(6), Civil 08-23335 (ADC) (May 12, 2009).

IV. Factual Background

a. Complainants' operation in the Port of Mayagüez.

7. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 7 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

8. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 8 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

9. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 9 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

10. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 10 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
ANSWER TO THE SECOND AMENDED VERIFIED COMPLAINT

11. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 11 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

12. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 12 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

13. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 13 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

14. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 14 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

b. The Mayagüez Port Commission's unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate.

15. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission's alleged "unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate," and not to conduct alleged against Holland Group. Holland Group nevertheless denies the allegations in paragraph 15 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

16. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission's alleged "unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate," and not to conduct alleged against

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
ANSWER TO THE SECOND AMENDED VERIFIED COMPLAINT

Holland Group. Holland Group nevertheless denies the allegations in paragraph 16 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

17. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission's alleged "unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate," and not to conduct alleged against Holland Group. Holland Group nevertheless denies the allegations in paragraph 17 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

18. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission's alleged "unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate," and not to conduct alleged against Holland Group. Holland Group nevertheless denies the allegations in paragraph 18 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

19. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission's alleged "unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate," and not to conduct alleged against Holland Group. Holland Group nevertheless denies the allegations in paragraph 19 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

20. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission's alleged "unreasonable cancellation of the

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
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Terminal Lease Agreement and refusal to negotiate,” and not to conduct alleged against Holland Group. Holland Group nevertheless denies the allegations in paragraph 20 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

21. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission’s alleged “unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate,” and not to conduct alleged against Holland Group. Holland Group nevertheless denies the allegations in paragraph 21 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

22. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission’s alleged “unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate,” and not to conduct alleged against Holland Group. Holland Group nevertheless denies the allegations in paragraph 22 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

23. This subsection IV.b of the Second Amended Verified Complaint is directed to Respondent Mayagüez Port Commission’s alleged “unreasonable cancellation of the Terminal Lease Agreement and refusal to negotiate,” and not to conduct alleged against Holland Group. Holland Group nevertheless denies the allegations in paragraph 23 of the Second Amended Verified Complaint on the basis that Holland Group does not have sufficient information or knowledge to admit or deny the allegations therein.

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c. The Port Commission and Holland Group refused to negotiate a lease agreement with Complainants.

24. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 24 of the Second Amended Verified Complaint and on that basis denies the allegations therein. The letter referred to in paragraph 24 speaks for itself.

25. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 25 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

26. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 26 of the Second Amended Verified Complaint and on that basis denies the allegations therein. The “draft” document referred to in paragraph 26 speaks for itself.

27. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 27 of the Second Amended Verified Complaint and on that basis denies the allegations therein. The “letter dated April 23, 2007” referred to in paragraph 27 speaks for itself.

28. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 28 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

29. Holland Group admits the allegations in paragraph 29 of the Second Amended Verified Complaint.

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
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30. Holland Group denies the allegations in paragraph 30 of the Second Amended Verified Complaint.

31. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 31 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

32. Holland Group admits the allegations in paragraph 32 of the Second Amended Verified Complaint.

33. Holland Group admits the allegations in paragraph 33 of the Second Amended Verified Complaint; except that as to allegations concerning the Port Commission, Holland Group does not have sufficient information or knowledge to admit or deny said allegations in paragraph 33 of the Second Amended Verified Complaint and on that basis denies them.

34. Holland Group denies the allegations in paragraph 34 of the Second Amended Verified Complaint.

35. Holland Group admits the allegations in the first sentence of paragraph 35 of the Second Amended Verified Complaint. Holland Group denies the allegations in the remainder of paragraph 35 of the Second Amended Verified Complaint.

36. Holland Group denies the allegations in paragraph 36 of the Second Amended Verified Complaint.

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d. The Port Commission and Holland Group failed to establish, observe, and enforce just and reasonable regulations and practices.

37. Holland Group admits the allegations in the first sentence of paragraph 37 of the Second Amended Verified Complaint. Holland Group denies the allegations in the remainder of paragraph 37 of the Second Amended Verified Complaint.

i. Rule 8.3 and Rate 16.7.5

38. Holland Group denies the allegations in paragraph 38 of the Second Amended Verified Complaint. The Tariff No. 01 Rule 8.3 referred to in paragraph 38 speaks for itself.

39. Holland Group does not have sufficient information or knowledge to admit or deny the allegations the first, second and third sentences of paragraph 39 of the Second Amended Verified Complaint and on that basis denies the allegations therein. Holland Group denies the allegations in the remainder of paragraph 39 of the Second Amended Verified Complaint.

40. Holland Group denies the allegations in paragraph 40 of the Second Amended Verified Complaint.

41. Holland Group denies the allegations in paragraph 41 of the Second Amended Verified Complaint. The Rate 16.7.5 referred to in paragraph 41 speaks for itself.

42. Holland Group denies the allegations in paragraph 42 of the Second Amended Verified Complaint.

ii. Rules 1.37 and 9.1.1.4 and Rate 16.2.9.

43. Holland Group denies the allegations in paragraph 43 of the Second Amended Verified Complaint. Tariff No. 01 Rules 1.37, 9.1.1.4, 9.1.1.4.1, 9.1.1.4.2 and Rate

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16.2.9 referred to in paragraph 43 of the Second Amended Verified Complaint speak for themselves.

44. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 44 of the Second Amended Verified Complaint and on that basis denies the allegations therein, except that Holland Group denies the allegations in the last sentence of paragraph 44.

iii. Unwarranted 800% increase in rental charges under Rule 15.0.

The Tariff No. 01 Rule 15.0 referred to in the unnumbered paragraph under sub-heading iii of the Second Amended Verified Complaint speaks for itself.

45. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 45 of the Second Amended Verified Complaint, and on that basis denies the allegations therein, except that Holland Group denies the allegation in paragraph 45 that “the rental rates are at the whim of Holland Group, without limitation.”

46. Holland Group denies the allegations in the first, penultimate and last sentences in paragraph 46 of the Second Amended Verified Complaint. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in the remainder of paragraph 46 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

47. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 47 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
ANSWER TO THE SECOND AMENDED VERIFIED COMPLAINT

48. Holland Group denies the allegations against Holland Group in paragraph 48 of the Second Amended Verified Complaint. Holland Group does not have sufficient information or knowledge to admit or deny the allegations against the Mayagüez Port Commission in paragraph 48 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

49. Holland Group denies the allegations against Holland Group in paragraph 49 of the Second Amended Verified Complaint. Holland Group does not have sufficient information or knowledge to admit or deny the allegations against the Mayagüez Port Commission in paragraph 48 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

e. Holland Group threatens to close the terminal and attempts to extort \$600,000.00.

50. Holland Group denies the allegations in paragraph 50 of the Second Amended Verified Complaint.

51. Holland Group admits the allegations in the first sentence of paragraph 51 of the Second Amended Verified Complaint. Holland Group denies the allegations in the remainder of paragraph 51.

52. Holland Group denies the allegations in paragraph 52 of the Second Amended Verified Complaint.

53. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 53 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

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f. Holland Group retaliates by imposing other unwarranted fees and charges in the amount of \$112,917.64.

54. Holland Group denies the allegations in paragraph 51 of the Second Amended Verified Complaint, except that Holland Group admits that it sent to Complainants the numbered invoices listed in paragraph 54.

55. Holland Group denies the allegations in paragraph 55 of the Second Amended Verified Complaint.

56. Holland Group denies the allegations in paragraph 56 of the Second Amended Verified Complaint.

57. Holland Group denies the allegations in paragraph 57 of the Second Amended Verified Complaint. The Tariff No. 01 Rate 16.6.3.1 referred to in paragraph 57 speaks for itself.

58. Holland Group denies the allegations in paragraph 58 of the Second Amended Verified Complaint.

59. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 59 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

60. Holland Group denies the allegations in paragraph 60 of the Second Amended Verified Complaint.

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g. Holland Group unjustifiably closed Area Gate #5 of the Terminal, impeding cargo operations.

61. Holland Group denies the allegations in paragraph 61 of the Second Amended Verified Complaint.

62. Holland Group denies the allegations in paragraph 62 of the Second Amended Verified Complaint.

63. Holland Group admits that Complainants were put on a cash prepayment basis. Holland Group denies the remainder of the allegations in paragraph 63 of the Second Amended Verified Complaint.

64. Holland Group denies the allegations in paragraph 64 of the Second Amended Verified Complaint.

65. Holland Group denies the allegations in paragraph 61 of the Second Amended Verified Complaint.

66. Holland Group denies the allegations in paragraph 66 of the Second Amended Verified Complaint.

h. Holland Group unjustifiably required all charges to be prepaid and overcharges for docking.

67. Holland Group denies the allegations in paragraph 62 of the Second Amended Verified Complaint.

68. Holland Group denies the allegations in paragraph 68 of the Second Amended Verified Complaint, except that Holland Group does not have sufficient information or knowledge to admit or deny the allegation that "Complainants have formally notified the U.S. Coast Guard, San Juan Sector and U.S. Customs" and on that basis denies the allegations therein.

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69. Holland Group denies the allegations in paragraph 69 of the Second Amended Verified Complaint, except that Holland Group does not have sufficient information or knowledge to admit or deny the allegation that “on October 28, 2008, the Complainants submitted a formal complaint with the Mayagüez Port Commission” and on that basis denies the allegations therein.

i Unfit condition of Mayagüez Terminal

70. Holland Group denies the allegations in paragraph 70 of the Second Amended Verified Complaint.

71. Holland Group denies the allegations in paragraph 71 of the Second Amended Verified Complaint, except that Holland Group does not have sufficient information or knowledge to admit or deny the allegation that “Complainants filed a formal complaint with the Port Commission” and on that basis denies the allegations therein.

j. Retaliation after the filing of the Verified complaint with the FMC

72. Holland Group denies the allegation in paragraph 72 of the Second Amended Verified Complaint, as the Verified Complaint was served by the FMC on November 26, 2008.

73. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 73 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

74. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 74 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

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75. Holland Group denies the allegations in paragraph 75 of the Second Amended Verified Complaint. The letters of November 14, 2008 referred to in paragraph 75 of the Second Amended Verified Complaint speak for themselves.

76. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 76 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

77. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 77 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

k. Retaliation in crescendo: the docking permit

78. Holland Group does not have sufficient information or knowledge to admit or deny the allegations in paragraph 78 of the Second Amended Verified Complaint and on that basis denies the allegations therein.

79. Holland Group denies the allegations in paragraph 79 of the Second Amended Verified Complaint.

l. The straw that broke the camel's back

80. Holland Group denies the allegations in paragraph 80 of the Second Amended Verified Complaint. The letter of March 31, 2009 referred to in paragraph 80 of the Second Amended Verified Complaint speaks for itself.

81. Holland Group admits the allegations in paragraph 81 of the Second Amended Verified Complaint.

82. Holland Group denies the allegations in paragraph 82 of the Second Amended Verified Complaint.

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V. Violations of the Shipping Act

Holland Group denies the allegations in section V of the Second Amended Verified Complaint, including subparagraphs 1-16, except that as to paragraph 16 of section V, Holland Group does not have sufficient information or knowledge to admit or deny the allegations and on that basis denies the allegations therein.

VI. Prayer for Relief

Holland Group denies that Complainants are entitled to relief from the Commission as alleged in section VI of the Second Amended Verified Complaint, including subparagraphs i-v, or to any other relief from Holland Group; and Holland Group respectfully urges that the Second Amended Verified Complaint be dismissed as to Holland Group with prejudice; that Complainants not be awarded relief in the form of a cease and desist order; that Respondent Holland Group not be ordered to adopt any practices; that Complainants not be awarded reparations, attorney's fees, interest or any monetary damages whatsoever; and that Complainants not be awarded any other form of relief against Holland Group. Any allegation in the Second Amended Verified Complaint not specifically admitted is denied.

The parties have engaged in mediation through the Commission's Office of Consumer Affairs & Dispute Resolution Services without result.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Second Amended Verified Complaint fails to state a claim against Holland Group for which relief can be granted.

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Second Affirmative Defense

Holland Group's Lease and Development Agreement with the Mayagüez Port Commission was executed on May 11, 2007; Holland Group assumed responsibilities under the Lease and Development Agreement on August 9, 2007; and any and all allegations by Complainants against Holland Group for allegedly unlawful conduct prior to August 9, 2007 should be dismissed.

Third Affirmative Defense

Holland Group has lawfully operated, administered and developed the Port of Mayagüez and continues to lawfully operate, administer and develop the Port of Mayagüez under the delegation of authority from the Mayagüez Port Commission.

Fourth Affirmative Defense

During pendency of the Puerto Rico injunction proceedings referred to in paragraph 6 above, Complainants, by agreement of Holland Group, paid rent for the Mayagüez port facilities based on the level of charges that Complainants paid under their lease with the Puerto Rico Ports Authority that had expired on January 28, 2008 (the funds being consigned by Marine Express at the federal District Court); and contrary to their assertions, Complainants continued to enjoy the financial benefit of an expired lease based on terms negotiated between Complainants and a third-party in 2003.

Fifth Affirmative Defense

The manner in which Complainant's vessel, the M/V CARIBBEAN EXPRESS, docks (the stern of the vessel at the pier to enable roll-on/roll-off loading and unloading; see Attachment A hereto) obstructs the navigational channel at the Port of Mayagüez; and other commercial vessels were unable to safely enter or exit the Port of Mayagüez marine

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terminals unless the CARIBBEAN EXPRESS moved from the dock. Holland Group must ensure the navigational safety of all vessels entering and leaving the channel and enforce rules and regulations designed to prevent collisions or other maritime distresses within the Port's maritime terminal facilities. Complainants' obstructive conduct in connection with docking its vessel was disruptive to the operations of the Port.

Sixth Affirmative Defense

Complainants departed from the Port of Mayagüez due to their failure to persuade the federal District Court in the injunction proceedings that Complainants were likely to succeed in their complaint filed with Federal Maritime Commission and that Complainants would suffer irreparable harm absent an injunction (see paragraph 6 above); and Complainants' departure had nothing to do with any alleged conduct by Holland Group.

Seventh Affirmative Defense

Complainants' allegations of injuries and damages, all of which Holland Group denies, are the consequences of Complainants' own actions.

Eighth Affirmative Defense

Holland Group establishes, observes, and enforces just and reasonable regulations and practices relating to or connected with receiving, handling, storing or delivering property.

Ninth Affirmative Defense

Holland Group has not agreed with any person to boycott or unreasonably discriminate in the provision of terminal services.

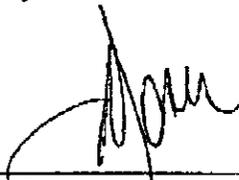
HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
ANSWER TO THE SECOND AMENDED VERIFIED COMPLAINT

Tenth Affirmative Defense

Holland Group does not give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person.

Eleventh Affirmative Defense

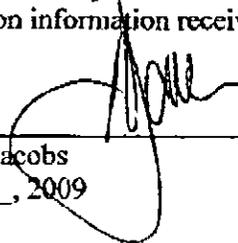
Holland Group has not unreasonably refused to deal or negotiate.



Antonio Jacobs
Port Captain, Port Administrator and General Manager
Holland Group Port Investment (Mayagüez), Inc.

VERIFICATION

I, Antonio Jacobs, Port Captain, Port Administrator and General Manager of Holland Group Port Investment (Mayagüez), Inc., declare under penalty of perjury that I am the person who signed the foregoing Answer to the Second Amended Verified Complaint, that I have read the Answer to the Second Amended Verified Complaint, and that the Answer to the Second Amended Verified Complaint is true and correct to the best of my knowledge and belief and as based on information received from others.



Antonio Jacobs
June 10, 2009

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
ANSWER TO THE SECOND AMENDED VERIFIED COMPLAINT

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June 2009, a copy of the foregoing
Holland Group Port Investment (Mayagüez), Inc.'s Answer to the Second Amended
Verified Complaint was served on the following by email and United States mail:

Jorge F. Blasini, Esq.
Jose Ramon Rivera, Esq.
Jiménez, Graffam & Laussell
P.O. Box 366104
San Juan, Puerto Rico 00936-6104
jblasini@jgl.com
rrivera@jgl.com

Antonio Valiente, Esq.
Quiñones & Arbona
P.O. Box 71405
San Juan, Puerto Rico 00936
avaliente@qslaw.net


Eliot J. Halperin

Google Maps port of mayaguez

To see all the details that are visible on the screen, use the "Print" link next to the map.



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of Mayaguez

aguez

aguez, Puerto Rico

Igan Lectrols Corporation
Glendale St, Livonia, MI -
427-0300

Commerce Department
Constitution Ave NW, Washington, DC -
482-2000

BEFORE THE
FEDERAL MARITIME COMMISSION

2009 JUN 11 AM 11:22
U.S. FEDERAL MARITIME COMMISSION

_____)
WESTERN HOLDING GROUP)
INC., <i>et al.</i> ,)
)
	Complainants,)
vs.)
)
MAYAGÜEZ PORT COMMISSION,)
<i>et al.</i>)
)
	Respondents.)
_____)

FMC Docket No. 08-06

HOLLAND GROUP PORT INVESTMENT (MAYAGÜEZ), INC.'S
COUNTER-COMPLAINT AGAINST WESTERN HOLDING GROUP, INC.,
MARINE EXPRESS, INC. AND
CORPORACIÓN FERRIES DEL CARIBE, INC.

I. COUNTER-COMPLAINANT/RESPONDENT

Holland Group Port Investment (Mayagüez), Inc. ("Holland Group") is a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, and was incorporated on April 6, 2006. Under a Lease and Development Agreement between Holland Group and the Mayagüez Port Commission, Holland Group is responsible for operating, administering and developing the Port of Mayagüez. Holland Group is responsible for enforcing the Port of Mayagüez tariff, Tariff No. 1, issued by the Mayagüez Port Commission. The address of Holland Group is #80, Road 3341, Suite 102, Mayagüez, Puerto Rico 00682.

Holland Group has been named a Respondent in the Second Amended Verified Complaint served in Docket No. 08-06. Pursuant to the procedural schedule approved by

Order of the Presiding Office (Order Entering Discovery Schedule, June 1, 2009), Holland Group files separately an answer to the Second Amended Verified Complaint; and files herewith a Counter-Complaint, pursuant to 46 CFR § 502.64(d), which Holland Group shall serve this date upon all parties of record in this docket. Any reference to Holland Group as a Respondent shall also hereinafter mean Counter-Complainant.

II. COUNTER-RESPONDENTS/COMPLAINANTS

On information and belief, Complainant Western Holding Group, Inc. (“Western Holding Group”) is a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, was incorporated on April 16, 2004, is the owner of a vessel known as the M/V CARIBBEAN EXPRESS, and has its address at P.O. Box 6448, Mayagüez, Puerto Rico 00681.

On information and belief, Complainant Marine Express, Inc. (“Marine Express”), acting as an ocean common carrier in the U.S./foreign commerce, is a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, was incorporated on October 6, 1992, utilizes the M/V CARIBBEAN EXPRESS in connection with the transportation of passengers and goods between Puerto Rico and the Dominican Republic and has its address at P.O. Box 6448, Mayagüez, Puerto Rico 00681. The Commission’s web site shows that Marine Express publishes an ocean common carrier tariff at www.etmrates.com and that Marine Express has been assigned FMC Organization No. 011247.

On information and belief, Complainant Corporación Ferries del Caribe, Inc. (“Ferries del Caribe”) is a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, was incorporated on July 30, 1997, acts as an ocean

common carrier in connection with the transportation of passengers and goods between Puerto Rico and the Dominican Republic aboard the M/V CARIBBEAN EXPRESS and has its address at P.O. Box 6448, Mayagüez, Puerto Rico 00681. Ferries del Caribe has passenger performance and casualty bonds on file with the Federal Maritime Commission.

Western Holding Group, Marine Express and Ferries del Caribe have been named as Complainants in the Second Amended Verified Complaint served in Docket No. 08-06. Any reference to any Complainant individually or together shall mean Complainants; also, hereinafter any reference to any Complainant singularly or together shall mean Counter-Respondents.

III. JURISDICTION

The Commission has jurisdiction over this Complaint pursuant to 46 U.S.C. §§ 40501, 41102, 41104, 41301 and 41305.

IV. MATTER OF COMPLAINT

The circumstances that form the basis for this Complaint are as follows:

Tariff Violations:

A. On information and belief, during the period from January 1, 2008 to the present in the trade between Puerto Rico and the Dominican Republic, Marine Express has published in their freight tariff a total of thirty-one new or amended commodity tariff rate items.

B. On information and belief, most of these 2008 and 2009 tariff item publications involve new or initial rates, plus some publications that added expiration dates for particular commodity rate items.

C. On information and belief, Marine Express' published freight tariff for the trade between Puerto Rico and the Dominican Republic contains hundreds of other commodity tariff rate items, none of which has been amended or supplemented since 2007.

D. On information and belief, Marine Express does not have any service contracts with one or more shippers filed with the Federal Maritime Commission.

E. Complainants claim in their Second Amended Verified Complaint that they transport 13,500 containers, or 22,500 twenty-foot trailer equivalent units, per year, and 18,800 motor vehicles per year, in the trade between Puerto Rico and the Dominican Republic. (Second Amended Verified Complaint, ¶ 13).

F. On information and belief, Complainant Marine Express did not transport the alleged 13,500 containers in 2008 and an allocable portion in 2009 between Puerto Rico and the Dominican Republic containing only the thirty-one commodity rate items referred to in Paragraph A above.

G. On information and belief, Complainant Marine Express did not transport a portion of the alleged 13,500 containers in 2008 and an allocable portion in 2009 at rates which were established in 2007 or earlier and which were not adjusted to reflect ocean transportation market conditions and economic factors in 2008 and 2009.

H. On information and belief, Complainant Marine Express transported substantially all the alleged 13,500 containers in 2008 and an allocable portion in 2009 at rates not applicable under its published tariff.

I. On information and belief, Complainant Marine Express unjustly or unfairly allowed its cargo customers to obtain transportation at rates lower than the

applicable rates published in its tariff, or provided service not in accordance with rates or rules in its published tariff, in violation of the Shipping Act of 1984, as amended. (46 U.S.C. § 41104(1) and (2)(A)).

J. Complainants have not adhered to Federal Maritime Commission requirements regarding tariff publication. (46 U.S.C. § 40501(a); 46 CFR § 520.3(a)).

Unreasonable Practices:

K. Complainants refuse to pay applicable marine terminal charges assessed by Holland Group in accordance with the Port of Mayagüez tariff, Tariff No. 1, issued by Respondent Mayagüez Port Commission, for use of the facilities and services at the Port of Mayagüez.

L. Such use of marine terminal facilities by Complainants, operating as ocean common carriers at the Port of Mayagüez, results in Complainants' failure to observe reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

M. Holland Group's assessment of charges under Tariff No. 1 against Complainants is based on Complainants' status as an ocean common carrier of cargo and passengers under the Shipping Act of 1984 as amended (46 U.S.C. § 40102(6)(A) and (17)).

N. On information and belief, Complainant Marine Express holds itself out to the general public as an ocean common carrier in the trade between Puerto Rico and the Dominican Republic, offering a regular, round-trip service between such points three times a week for the transportation of goods for compensation.

O. On information and belief, Complainant Ferries del Caribe holds itself out to the general public as an ocean common carrier in the trade between Puerto Rico and the Dominican Republic, offering a regular, roundtrip service between such points three times a week for the transportation of passengers for compensation.

P. The Federal Maritime Commission's web site, under the heading for VOCCs (vessel-operating common carriers), shows that Complainant Marine Express has a Federal Maritime Commission organizational number and publishes a freight tariff pursuant to Federal Maritime Commission regulations.

Q. On information and belief, Complainant Ferries del Caribe has on file passenger performance and casualty bonds with the Federal Maritime Commission.

R. Complainants assert that they transport thousands of containers and motor vehicles, and hundreds of thousands of passengers per year (Second Amended Verified Complaint, ¶ 13).

S. Complainants describe their vessel, the CARIBBEAN EXPRESS, as having a full range of cruise ship services for passengers (Second Amended Verified Complaint, ¶ 12).

T. Complainants have continued to file verified complaints with the Federal Maritime Commission invoking their status as ocean common carriers. (Second Amended Verified Complaint, ¶¶ 2, 6 and 11).

U. Complainants assert, nevertheless, that they are a ferry boat company, seeking to pay charges under the Port of Mayagüez Tariff No. 1 as a ferry boat company and not as an ocean common carrier.

V. The Shipping Act distinguishes between ocean common carriers and ferry boats, statutorily establishing that an ocean common carrier does not include a carrier engaged in ocean transportation by ferry boat. ((46 U.S.C. § 40102(6)(B))).

W. Complainants, via Ferries del Caribe, submitted an April 7, 2009 claim to Holland Group disputing charges assessed by Holland Group under section 16.4.2 of Tariff No. 1. See Attachment A hereto with English translation. Section 16.4.2 provides a charge for “Services Charges for Vessel’s Passengers,” including cruise vessels, charters and vessels carrying passengers. The charge is \$12.00 per passenger embarking or disembarking at the Port of Mayagüez. See Attachment B hereto, page 113 of Tariff No. 1.

X. Complainants’ claim asserts that section 16.4.2 does not apply to passengers traveling on the CARIBBEAN EXPRESS, and that the proper charge is under sections 16.5.3 and 16.5.4. See Attachment B. Sections 16.5.3 and 16.5.4 provide charges for “Services Charges for Ferry Vessels to and from the Port of Mayagüez.” The charge per passenger embarking or disembarking at the Port of Mayagüez is \$1.52.

Y. Complainants’ claim cites also the distinction between the tariff’s definitions for “Cruise Ships or Passenger Ships” and for “Ferryboats or Ferry” in tariff sections 1.11 and 1.21, evidently seeking to show that the ferry definition is applicable to Complainants as operators of the CARIBBEAN EXPRESS. See Attachment C hereto, pages 7 and 9 of Tariff No. 1.

Z. Complainants had the opportunity to present their views as to such tariff provisions in Tariff No. 1, having participated in public hearings conducted by the Mayagüez Port Commission in 2007. See Attachment D hereto, Preliminary Injunction

Hearing, *Western Holding Group, Inc., et al. v. The Mayagüez Port Commission, Inc., et al.*, CV No: 3 : 08-CV-02335 (ADC), United States District Court for the District of Puerto Rico, January 16, 2009; transcript pages 1, 13-15 and 63-64.

AA. Complainants' deliberately have carried out a scheme to pay the wharfage, passenger and other marine terminal charges under Port Tariff No. 1 applicable for ferries, which charges are substantially lower than the same charges as applied to ocean common carriers.

BB. Complainants intentionally have misrepresented their status as ferries as a device to misuse and abuse their access to the marine terminal facilities at the Port of Mayagüez that are under the administration of Holland Group.

CC. Complainants have used and taken advantage of the Port of Mayagüez marine terminal facilities and services for Complainants' monetary gain, having no intention to pay the properly applicable Port Tariff No. 1 charges relating to the receiving, handling, storing, or delivering property or in connections with passengers.

DD. Complainants' use of the marine terminal facilities at the Port of Mayagüez without payment or full payment has resulted in disruption to the Port and interference with other potential Port users who may have been dissuaded from seeking access to the facilities as a result of Complainants' deceptive practices.

EE. Complainants have implemented a self-serving scheme to prevent Holland Group from enforcing the terminal tariff mandated by the Mayagüez Port Commission; to improperly obtain terminal services at rates applicable to ferries rather than as ocean common carriers; and to fail in the observance of reasonable practices relating to or connected with receiving, handling, storing, or delivering property.

FF. Complainants' practices also unreasonably discriminate against common carrier cruise operators who serve the Port of Mayagüez and who would be required to pay the tariff charges appropriate to common carriers rather than to ferries.

GG. Complainants therefore have failed to observe just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property at the Port of Mayagüez. (46 U.S.C. § 41102(c)).

V. VIOLATIONS OF THE 1984 ACT AND COMMISSION REGULATIONS

By reason of the facts stated in the foregoing Parts I-IV of this Counter-Complaint which are incorporated herein as if fully set forth, Holland Group has been and is continuing to be subjected to injury as a direct result of violations of the Shipping Act as follows:

(A) 46 U.S.C. § 41102 (c). Complainants have failed to establish, observe and maintain reasonable regulations and practices in connection with the receiving, handling, storing or delivering of property through their intentional misrepresentation to Holland Group of Complainants' status as ferries rather than as ocean common carriers which has resulted in Complainants engaging in a scheme to unreasonably obtain the use and services of marine terminal facilities at the Port of Mayagüez at rates applicable to ferries, which rates are substantially below the applicable rates for common carriers.

(B) 46 U.S.C. § 41104 (1) and (2)(A). Complainant Marine Express allowed persons to obtain transportation for property at less than the rates or charges established by Complainant Marine Express in its published tariff by means of charging rates below the rates that would otherwise be applicable to the shipments or at rates not appearing in Complainant Marine Express' tariff; and Complainant Marine Express did not provide

service in accordance with the rates, charges, classifications, rules and practices contained in its tariff.

(C) 46 U.S.C. § 40501(a)(1). Marine Express, as an ocean common carrier, has failed to keep open for public inspection, in its automated tariff system, tariffs showing all rates, charges, classifications, rules, and practices for its established transportation route between Puerto Rico and the Dominican Republic by its transporting cargo at rates not appearing in its tariff.

(D) 46 CFR § 520.3(a). Marine Express, as an ocean common carrier, has failed to keep open for public inspection, in its automated tariff system, tariffs showing all rates, charges, classifications, rules, and practices for its established transportation route between Puerto Rico and the Dominican Republic in violation of the Commission rules and regulations governing tariff publication responsibilities.

(E) Complainants may have committed additional violations of the Shipping Act and Commission regulations that may be revealed in the course of the proceeding.

(F) The foregoing violations by Complainants are continuing in nature and as such are incorporated in this Complaint.

VI. INJURY SUFFERED BY COMPLAINANT

By reason of the violations of the Shipping Act and § 520.3(a) of the Commission's regulations as set forth in Part V of this Counter-Complaint, Holland Group has been injured by Complainants' past and ongoing withholding of marine terminal charges properly assessed by Holland Group pursuant to the Port of Mayagüez Tariff No. 1 and Holland Group's consequent loss of revenue, in an amount to be determined later. Further, Complainants' tariff violations committed at the Port of

Mayagüez have a deleterious impact on the reputation of the Port and its ability to attract business in its ongoing efforts to develop and establish an outstanding port facility. Holland Group has suffered and will continue to suffer substantial, potentially irreparable, direct and indirect monetary injury, to be proved during the proceeding.

VII. PRAYER FOR RELIEF

Holland Group prays that Complainants be required to answer the charges herein; that after due investigation and hearing Complainants be found to have violated 46 U.S.C. §§ 40501(a)(1), 41102(c), 41104(1) and (2)(A) of the Shipping Act and 46 CFR § 520.3(a) of the Commission's regulations, as aforesaid, and such other provisions of the Shipping Act and Commission regulations as to which violations may be proved hereunder; that Complainants be ordered to cease and desist from the aforementioned violations, including unlawful withholding of marine terminal payments, depriving Holland Group of the use of the moneys so withheld; that Complainant be ordered to pay reparations for the injury caused to Holland Group by such violations described herein above, including interest and attorney's fees; and that Holland Group be granted such other and further relief as the Commission determines to be proper in the premises.

Holland Group has not utilized the Commission's ADR program prior to filing this Counter-Complaint.

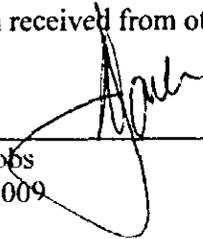
Date: June 10, 2009



Antonio Jacobs
Port Captain, Port Administrator and General Manager
Holland Group Port Investment (Mayagüez), Inc

VERIFICATION

I, Antonio Jacobs, Port Captain, Port Administrator and General Manager of Holland Group Port Investment (Mayagüez), Inc., declare under penalty of perjury that I am the person who signed the foregoing Counter-Complaint, that I have read the Counter-Complaint, and that the Counter-Complaint is true and correct to the best of my knowledge and belief and as based on information received from others.



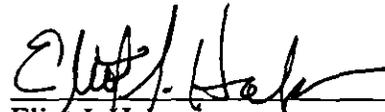
Antonio Jacobs
June 10, 2009

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June 2009, a copy of the foregoing Holland Group Port Investment (Mayagüez), Inc.'s, Counter-Complaint Against Western Holding Group, Inc., Marine Express, Inc. and Corporación Ferries del Caribe, Inc. was served on the following by email and United States mail:

Jorge F. Blasini, Esq.
Jose Ramon Rivera, Esq.
Jiménez, Graffam & Laussell
P.O. Box 366104
San Juan, Puerto Rico 00936-6104
jblasini@jgl.com
rivera@jgl.com

Antonio Valiente, Esq.
Quiñones & Arbona
P.O. Box 71405
San Juan, Puerto Rico 00936
avaliente@qslaw.net


Eliot J. Halperin

Port Of Mayaguez

Disputed Charge Claim Form

0409-10

Acknowledge # 7004 0550 0000 9597 3024

Name of Claimant Corporación Ferries del Caribe.

Date of Claim Filing 07 de abril de 2009

Date of Port Invoice 06 de abril 2009

Port Invoice Number 849

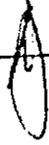
Date of Payment 02 de abril 2009

Method of Payment cheque

Tariff Item disputed Sección 16.4.2

RECEIVED

APR 13 2009

BY: 

Reason to dispute charges:

La sección 16.4.2 del Reglamento Tarifario Nú.1 es inaplicable a los pasajeros que se mueven en el M/V Caribbean Express. Las secciones aplicables al movimiento de pasajeros en el M/V Caribbean Express son la 16.5.3 y 16.5.4. Ver sección 1.0 (Definiciones) en específico, secciones 1.11 y 1.21.

Port Administrator response:

Amount of Credit Granted _____

Port Administrator signature _____

Instructions: Claimant must: fill in each line, provided all the information requested in sections 7.0 of the tariff, deliver to the Port Administrator office. Incomplete claim forms will not be process and/or deemed deliver.

Corporación Ferries del Caribe Claim -- April 7, 2009

Section 16.4.2 of the Tariff Regulations No. 1 is not applicable to passengers that travel on M/V Caribbean Express. The applicable sections for traveling passengers on the M/V Caribbean Express are 16.5.3 and 16.5.4. See section 1.2 (definitions), specifically, sections 1.11 and 1.21.

1.10 Cruise Incentives - Direct marketing approach in which a monetary reward as a credit is given to the cruise lines, accordingly to Section 10.3, whenever schedule as a destiny the Port of Mayagüez.

1.11 Cruise Ships or Passenger Ships - Means ships designed with cabins and engaged for transporting or carrying twelve or more passengers, used primarily for conducting cruises or tour services and not designed for carrying Cargo.

1.12 Cruise Ships Maiden Voyage - Cruise Vessel first time of call to the Port of Mayagüez. Cruise Vessel which eventually changed of name or enterprise is not entitled to apply for a maiden voyage privilege.

1.13 CWT - Abbreviation for hundredweight. When used with respect to computation of Wharfage or Demurrage, means (1) by weight, per cwt of 100 pounds; (2) by volume, per cwt of two cubic feet; or (3) board foot measurement in case of lumber, per 24 board feet being equivalent to a cwt of two cubic feet.

.

twenty four 24 hours before arriving time and such form have to be approved before Vessel approaching. Previous arrangements are suggested to ensure the acceptance of the Docking Permit.

1.19 Dunnage - Loose materials used to support and protect Cargo in a ships hold. Padding.

1.20 Empty Container or Empty General Cargo - Refers to an unsealed Container or General Cargo available for inspection. Any sealed Container or General Cargo left on common spaces and subject to Demurrages is considered a full Cargo Container, even it was declared as empty.

1.21 Ferryboats or Ferry - Vessels used for transporting passengers and/or merchandise in regular periodic and continuous sailing and which may at the same time render Cargo services.

1.22 Free Time - The period of time, including Saturdays, Sundays and legal Holidays, during which Cargo or materials may occupy space assigned to it free of storage charges or Demurrage prior to the loading or subsequent to the discharge of such Cargo on or off the Vessel.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

WESTERN HOLDING GROUP,
INC., et al.

Plaintiff

vs.

THE MAYAGUEZ PORT
COMMISSION, et al.

Defendant(s)

CV NO: 3:08-CV-02335 (ADC)

Hato Rey, Puerto Rico
January 16, 2009

PRELIMINARY INJUNCTION HEARING
BEFORE THE HONORABLE CHIEF U.S. MAGISTRATE JUDGE
JUSTO ARENAS
FEDERAL BUILDING, HATO REY, PUERTO RICO

APPEARANCES:

For the Plaintiff: Jorge Blasini-Gonzalez, Esq.
Ramon Rivera-Gonzalez, Esq.

For the Defendant: Jose Cancio-Bigas, Esq.
Yvonne Menendez-Calero, Esq.
Charles E. Vilaro-
Valderrabano, Esq.

Court Interpreter: Ravelo

CERTIFIED TRANSCRIBERS INC.
1075 Carr. 2 Cond. Plaza Suchville #302
Bayamon, Puerto Rico 00959
Tel. # (787)783-6623

1 morning. Yes, Your Honor. I am certified.
2 And I'd also like to state for the Court that
3 I have taken note of it, 9:30, time for the
4 hearing. So, I'd like to apologize both to
5 the Court and the attorneys for the parties.
6 Carlos Ravelo, federally certified
7 interpreter.

8 THE MAGISTRATE: Take the oath.

9 (MARIBEL MÁS,

10 after having first been duly sworn,
11 is examined as Witness and testifies as
12 follows:)

13 MR. BLASINI-GONZALEZ: Your
14 Honor, we're going to attempt to ask the
15 question and attempt not to translate the
16 question into Spanish. She's going to answer
17 in Spanish and then translate --

18 THE MAGISTRATE: So, you
19 understand the English, but you're more
20 comfortable in testifying in Spanish?

21 THE WITNESS: Yes.

22 THE MAGISTRATE: Okay. That's
23 great.

24 DIRECT EXAMINATION

25 BY MR. BLASINI-GONZALEZ:

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Tel. # (787)783-6623

1 Q For the record, could you
2 please state your name?

3 A Maribel Más Rivera and.

4 Q Ms. Más, where do you
5 live?

6 A Mayagüez, Puerto Rico.

7 Q How long have you lived
8 in Mayagüez, Puerto Rico?

9 A It's been 43 years since
10 I was born.

11 Q Let's talk about your
12 academic background. What is your academic
13 background?

14 A I have a bachelor's
15 degree in accounting. Subsequently, I
16 obtained a license as a CPA, certified public
17 accountant. And later, I obtained my degree
18 as a jurist Doctor.

19 Q And when did you receive
20 your certification for a CPA?

21 A In 1993.

22 Q Is your certification
23 valid?

24 A Yes.

25 Q Let's talk about your

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1 relation to the Plaintiff. What is your
2 position in regards to the Marine Express?

3 A Vice-president for all
4 three corporations.

5 Q And when you talk about
6 all three corporations, you're talking about
7 Marine Express, Corporación Farís del Caribe,
8 and Western Holding Group?

9 A Yes.

10 Q When did you start
11 working and when did you start -- when did you
12 start working for Marine Express?

13 A For the last 16 years
14 when the corporation was incepted, I was part
15 of the group that incepted, started and
16 organized the corporation.

17 Q And what is the business
18 of Marine Express?

19 A Cargo maritime operations
20 between Puerto Rico and the Dominican
21 Republic.

22 Q And, when you talk about
23 cargo, what type of cargo?

24 A Container-type cargo.

25 Q Let's talk about

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Tel. # (787)783-6623

1 Q Now, let's move to March
2 2008. What happened in March 2008?

3 A On March 13th, Holland
4 Group forwards to us the tariff rates related
5 to docking of vessels, which would be
6 effective 48 hours after the delivery time of
7 same.

8 Q Did you have the
9 opportunity to review the tariffs before they
10 became effective?

11 A No.

12 Q Did you participate in
13 hearings concerning the tariffs?

14 A Yes.

15 Q When?

16 A In the summer of 2007.

17 Q And what were your
18 concerns concerning that?

19 A When they are published
20 as the law requires, that the tariffs are to
21 be drafted, we requested a copy.

22 When we evaluated it,
23 the original, that was in 2007, we discovered
24 that the increases were unreasonable and
25 unjustified at 100% as to some of the items,

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1 48% for others, --

2 MR. CANCIO-BIGAS: Your Honor?

3 THE WITNESS: -- 25% for others,

4 --

5 MR. CANCIO-BIGAS: Objection,
6 Your Honor. We -- we understand that the
7 tariff -- the tariff has been accepted for the
8 purposes of this case.

9 I don't think that an
10 attack on whether the tariffs are reasonable
11 or not should be part of this -- of this
12 trial.

13 The Plaintiffs have
14 stipulated that the tariffs are valid. There
15 is no objection to the tariffs's validity.

16 THE MAGISTRATE: The validity of
17 the tariff?

18 MR. BLASINI-GONZALEZ: We're only
19 setting the background, Your Honor. That's
20 the only issue. We're not going to -- we're
21 not going to contest that to the tariff. She
22 participated in the hearings, and that's what
23 we set in the background.

24 THE MAGISTRATE: I --

25 MR. CANCIO-BIGAS: I request that

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