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March 3, 2009

**Federal Maritime Commission (FMC)**

Attn.: Karen V. Gregory / Secretary  
800 North Capital Street, NW  
Washington, DC 20573-0001

Via Email and Priority Mail

Re: Petition Docket No. 08-07 / Olympus Growth Fund on Global Link Logistics

Dear Ladies & Gentlemen,

I am respectfully submitting my comments in regards to your "Request for Comments" published February 19, 2009.

The claimed "practice of re-routing the domestic inland transportation leg of a through intermodal shipment by NVOCCs" is by no means a "common practice" or legal under the Shipping Act of 1984 in my humble view. Just because some NVOs believe they can deceive ocean carriers and purchase transportation at lower than published or contracted rates does not make their actions legal or acceptable. Aside from this, it also unfairly distorts competition with other NVOs who do not participate in this deception scheme.

In my previous longtime professional life as an OTI, and during the last 10 years as an independent supply chain and trade compliance consultant, I have not seen such "re-routing practices" with any of the OTIs I worked for or those that are or have been my clients.

Of course this does not explain why ocean carriers create such subsidized rates in the first place, and why they would be willing to lose money on the inland freight. I can only guess here: Maybe the ocean carrier has a demand for export loads from a certain inland origin, for example Orlando, FL. And by matching up an export load with an import delivery, they can eliminate double inland freight from Miami and are thus willing to offer the import trucking on a through B/L to Orlando at a \$300 loss. As long as

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the ocean carrier maintains control over this; it is their risk and benefit. But if an NVO “conspires” with the trucking company to divert the import container to Tampa for example (assuming that both Orlando and Tampa are similarly priced), the ocean carrier cannot take advantage of the export load from Orlando. The trucker still bills the ocean carrier their full normal rate (claiming to have gone to Orlando), but the NVO paid \$300 less to the ocean carrier because of the “sham destination” Orlando they booked the container to – with no intention to ever sending it there. The result: the ocean carrier lost \$300, the NVO either pocketed this extra money or offered an artificially lower \$300 rate to their customer thus unfairly competing with all other NVOs who are not participating in this scheme.

Our country strives for integrity and fair competition, and there is nothing wrong with good competition, it's a win-win for all. And everyone participating in this competition should be free to decide how much profit to make or how much to lose if they believe this will be beneficial to their business. And there is nothing wrong for a VOCC and NVOCC to negotiate a rate fairly and agree to the terms and conditions openly, even if it results in a loss for one of the participants. I also salute those NVOs that develop new business opportunities and truly add value by being creative: for example matching up import and export loads themselves. This carries a risk and thus the reward should be theirs to keep or share as they wish. But clearly the “practice of re-routing” described in this docket does not meet this standard.

Therefore I recommend that the FMC finds that the “practice of re-routing” as described in the proceedings is not legal under current or past law. I also certify that I have not been compensated (in contrast to some of the other witnesses to these proceedings) by anyone to review this case and provide my comments to the FMC.

In addition I provide following statement:

*CERTIFICATE OF SERVICE Petition 08-07*

I hereby certify that I have this day, served a copy via mail of my comments dated March 3, 2009 upon:

1. Lewis R. Clayton of Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019-6064
2. Warren L. Dean, Jr. of Thompson Coburn LLP, 1909 K Street N.W., Suite 600, Washington, DC 20006

Sincerely,



Albert W. Saphir

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