

ATTORNEYS AT LAW 2009 JAN -9 PM 4: 03

CANAL SQUARE 1054 THIRTY-FIRST STREET, NW WASHINGTON, DC 20007-4492

TELEPHONE: 202/342-5200 FACSIMILE: 202/342-5219
FEDERAL MARITIME COMMISSION

RICHARD BAR
BRENDAN COLLINS
STEVEN JOHN FELLMAN
EDWARD D. GREENBERG
KATHARINE FOSTER MEYER
DAVID K. MONROE
TROY A. ROLF
DAVID P. STREET
KEITH G. SWIRSKY

BRIAN J. HEISMAN*
KARA KRAMAN*
JASON M. SETTY*
DAVID G. SHANNON

DEREK A. BLOOM*
ROBERT N. KHARASCHO
JOHN CRAIG WELLER*

GEORGE F. GALLAND (1910-1985)

MINNESOTA OFFICE:
700 TWELVE OAKS CENTER DRIVE, SUITE 700
WAYZATA, MN 55391
(T) 952/449-8817 (F) 952/449-0614

WRITER'S DIRECT E-MAIL ADDRESS
DSTREET@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER
(202) 342-5220

WWW.GKGLAW.COM

*NOT ADMITTED IN DC
OF COUNSEL

January 9, 2009

BY HAND DELIVERY

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

Re: Docket No. 08-07
Petition of Olympus Growth Fund III, L.P. and
Olympus Executive Fund, L.P. for Declaratory Order,
Rulemaking or Other Relief

Dear Ms. Gregory:

Enclosed for filing are an original and fifteen copies of the Reply of Global Link Logistics, Inc. to Emergency Petition for Declaratory Order, Rulemaking or Other Appropriate Relief in Voluntary Disclosure Investigation in the above-referenced proceeding.

We request that you date stamp the enclosed additional copy of the Reply and return it to us. If you have any questions concerning this, please do not hesitate to contact me.

Very truly yours,



David P. Street

cc: DS/06

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**BEFORE THE
FEDERAL MARITIME COMMISSION**

2009 JAN -9 PM 4:03
OFFICE OF THE
FEDERAL MARITIME COMM

Petition of
Olympus Growth Fund III, L.P. and
Olympus Executive Fund, L.P. for Declaratory
Order, Rulemaking or Other Relief

FMC Docket No. P 08-07

**REPLY OF GLOBAL LINK LOGISTICS, INC. TO EMERGENCY PETITION FOR
DECLARATORY ORDER, RULEMAKING OR OTHER APPROPRIATE RELIEF IN
VOLUNTARY DISCLOSURE INVESTIGATION**

Pursuant to Rule 74 of the Federal Maritime Commission's ("Commission") Rules of Practice and Procedure, 46 C.F.R. § 502.74, Global Link Logistics, Inc. ("Global Link") hereby submits its reply to the emergency petition filed by Olympus Growth Fund III, L.P., Olympus Executive Fund, L.P. ("Olympus").

I. INTRODUCTION

Global Link is a licensed non-vessel-operating common carrier ("NVOCC") established in 1998 by Chad Rosenberg. In 2003, Mr. Rosenberg sold a majority interest in the company to Olympus, a private equity firm located in Stamford, Connecticut. Mr. Rosenberg continued to operate Global Link as the company's chief executive officer. In 2006, Mr. Rosenberg, Olympus and minority owners of Global Link conducted an auction to sell the company. The successful bidder in this auction was Golden Gate, L.L.C. ("Golden Gate"), which purchased the company in June, 2006.

After purchasing the company, the new owners discovered that Global Link had, for the majority of its shipments from overseas, been engaging in a practice referred to by Global Link employees as “split deliveries.” This split delivery practice was based on booking shipments with ocean carriers to low-rated destinations in the United States, but actually delivering them to alternative destinations without the carriers’ knowledge. The practice typically worked as follows: Global Link employees would instruct Global Link’s partner in China to book shipments with ocean carriers to destination points in the United States that had low service contract rates. At the same time, and for the same shipments, Global Link would instruct its partner to issue the NVOCC bill of lading to an alternate destination, which was the place where Global Link intended to actually have the cargo delivered to the customer.

Two through bills of lading would be issued for each shipment; the ocean carrier’s master bill of lading to the sham destination, and the NVOCC’s house bill of lading to the actual destination. When the shipments arrived in the United States at the port or rail ramp where the containers would be transferred to motor carriers for the final delivery, Global Link would issue delivery orders to the ocean carrier and the motor carrier. The delivery order given to the ocean carrier, titled “Shipline,” would state that the goods were to be delivered to the sham destination. The delivery order given to the motor carrier, titled “Truckline,” would state that the goods were to be delivered to the actual destination. By previous arrangement between Global Link and the motor carrier, the motor carrier would understand that the Truckline delivery order was the one to be given effect.

Upon learning of this practice, and after investigation, including consultation with legal counsel, Global Link’ new owners determined that the split delivery practice was in violation of the Shipping Act of 1984, 46 U.S.C. §§ 40101 *et seq.* (“Shipping Act”) and could not be

continued. They replaced the company's management team, which consisted of holdovers from the previous ownership, ceased all split deliveries and severed ties with Global Link's partner in China. They also instituted an arbitration seeking damages from the former owners, including Olympus, pursuant to the Stock Purchase Agreement for violation of a representation that Global Link had been operated in compliance with applicable law. Subsequently, Global Link disclosed the split delivery practices to the Commission's Bureau of Enforcement ("BOE") and has been in discussions with BOE pursuant to the informal compromise procedures of Section 604 of the Rules of Practice and Procedure, 46 C.F.R. § 502.74.

II. ARGUMENT

Olympus' assertions that a finding that the split delivery practices described above violate the Shipping Act would be either beyond the Commission's jurisdiction or a "significant change in the administration and application of the Shipping Act" are simply incorrect. The claim that Global Link is somehow improperly using the Commission's staff to influence the arbitration is belied by the facts. The relief requested by Olympus must be denied.

A. THE SPLIT DELIVERY PRACTICE CLEARLY VIOLATES THE SHIPPING ACT AND IS SUBJECT TO THE COMMISSION'S JURISDICTION

Section 41102(a) of the Shipping Act, 46 U.S.C. § 41102(c), prohibits a shipper from obtaining, through any unjust or unfair device, a lower rate than would otherwise be applicable.¹ The split delivery practice engaged in by Global Link clearly violates this provision. Falsely booking shipments to sham destinations and issuing false delivery orders constitute unjust and

¹ This section provides:

A person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means, obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.

unfair devices. *See Pacific Far East Lines – Alleged Rebates*, 11 F.M.C. 357, 364 (1968) (“... the unjust or unfair device or means must partake of some element of falsification, deception, fraud, or concealment in order to satisfy the legal requirements ...”). And the rates paid to the ocean carriers for transportation to the sham destinations were less than the rates that would have otherwise been applicable to the actual destinations. Indeed, obtaining lower rates was the reason for the practice and for the concealment of Global Link’s activities from the ocean carriers.

B. THE COMMISSION HAS JURISDICTION OF THE SPLIT DELIVERY PRACTICE

1. “Ocean Transportation” Includes Through Transportation

Olympus does not argue that the split delivery practice is lawful under Section 41102(a). Rather, it contends the split delivery practice is beyond the Commission’s jurisdiction. This argument is based on the fact that Section 41102(a) uses the term “ocean transportation” in the phrase “...obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.” (underlining added) According to Olympus, this means Congress intended to remove all inland transportation from the reach of this section. Olympus’ position is incorrect. The term “ocean transportation” is not defined in the Shipping Act. The legislative history of the Shipping Act and statutory construction, however, counsel that “ocean transportation,” means the transportation provided by ocean common carriers and includes both port to port and through transportation.

It is clear that Congress specifically intended, in drafting the Shipping Act of 1984 to replace the Shipping Act, 1916 for foreign transportation, to extend the Commission’s jurisdiction to encompass through rates and intermodal transportation. *See House Rep. No. 98-53, 98th Cong., 2 Sess. At 12-13, 29.* This Congressional intent is expressed in Section

40501(a)(1) of the Shipping Act, which requires, in the following language, that carriers file their through rates in FMC-regulated tariffs:

Each common carrier and conference shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, a common carrier is not required to state separately or otherwise reveal in tariffs the inland divisions of a through rate. (underlining added)

It is also expressed in the definition of “common carrier,” which is:

The term “common carrier”—

(A) means a person that—

(i) holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation;

(ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

(iii) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country;

46 U.S.C. § 40102(6). By including “point of receipt” and “point of destination” in this definition, Congress ensured that ocean carriers would be subject to both the Shipping Act and the Commission’s jurisdiction when they operate through transportation services to or from inland points.

The Commission itself has understood since passage of the 1984 Act that it has jurisdiction over through intermodal shipments. In Application of Pacific Westbound Conference and Mitsui O.S.K. Lines, Ltd. for the Benefit of Mitsubishi International Corp., 22 S.R.R. 1290, 1296 (F.M.C. 1984), the Commission stated:

It would appear that the general provisions of the 1984 Act which give the jurisdiction over “through transportation” between both United States and foreign “points and ports” have removed any doubt about the extent of the Commission’s jurisdiction. Clearly, the Commission now has jurisdiction over transportation from “port or point of receipt” to “port or point of destination” if the “common carrier” “utilizes” a “vessel operating on the high seas” for “all or part of that transportation” and if the common carrier “assumes responsibility” for transportation between those ports or points.

Section 41104(1) of the Shipping Act, 46 U.S.C. § 41104(1), forbids ocean common carriers to allow shippers to obtain lower rates through the use of unjust or unfair devices. This section is complementary to Section 41102(a), and states in full as follows:

A common carrier, either alone or in conjunction with any other person, directly or indirectly, may not—

(1) allow a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means;

In this section, Congress did not use the term “ocean transportation” to describe the covered activity. Rather, it describes the transportation at issue as that which is subject to “the rates and charges established by the carrier in its tariff or service contract.” This transportation, of course, includes through transportation to inland points. It would be absurd to penalize carriers for permitting shippers to engage in a practice that would be lawful for the shippers themselves. Thus, the term “ocean transportation” in Section 41102(a) must have the same meaning as the transportation covered by Section 41104(1); that is, transportation provided by ocean common carriers as established in their transfer or service contracts.

Analysis of the critical change Congress made to the language of the 1916 Act also supports this conclusion. As Olympus points out, the language in Section 41102(a) was taken from nearly identical language in the Shipping Act, 1916. *Emergency Petition*, Exhibit A at 8.² Congress made a key change, however, in replacing the phrase “transportation by water” in the 1916 Act with “ocean transportation” in the 1984 Act. As Olympus also points out, the 1916 Act

² Section 16 of the Shipping Act, 1916 provided:

That it shall be unlawful for any shipper, consignor, consignee, forwarder, broker, or other person, or any officer, agent, or employee thereof, knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means to obtain or attempt to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable.

did not apply to inland transportation. *id.* That, of course, is why the phrase “transportation by water” was used in the 1916 Act to limit the prohibition to port-to-port transportation. When the Shipping Act of 1984 extended the Commission’s jurisdiction to intermodal through transportation Congress had to replace the “transportation by water” limitation. It chose to use the term “ocean transportation,” which must, therefore, be taken to mean the transportation engaged in by ocean common carriers, whether port-to-port or through.

In sum, Section 41102(a) of the Shipping Act of 1984 clearly prohibits shippers from obtaining through transportation at less than the otherwise applicable rates through the use of unjust or unfair devices. It is just as clear that the split shipment practices in which Global Link engaged while under the ownership of Olympus and others violated this section.

2. Through Transportation, Including the Inland Portion, is Subject to Antitrust Immunity and the Commission’s Regulatory Jurisdiction.

Olympus also argues that the Commission does not have jurisdiction over inland transportation because such transportation is not exempted from the U.S. antitrust laws by the Shipping Act. Olympus asserts that:

The 1984 Act was written so that only those U.S. activities that were subject to the regulatory oversight of the FMC were exempted from the antitrust laws.

Emergency Petition, Exhibit A at 12. Whatever the merits of this general proposition, it is irrelevant to the split delivery practices in which Global Link participated. Those split delivery practices involved through transportation movements that are, as discussed above, clearly subject to the Commission’s jurisdiction and are also subject to exemption from the antitrust laws.

This is made explicit in the Shipping Act. Section 40301(a) states that the Shipping Act applies to agreements between or among vessel operating carriers to “discuss, fix, or regulate transportation rates, including through rates . . .” (underlining added). Section 40307(a)(1)

provides that the antitrust laws do not apply to such agreements when they have been filed and taken effect under the Shipping Act. Thus, even under Olympus' own theory, the split delivery practices involving shipments moving under through rates in which Global Link participated are clearly subject to the Commission's jurisdiction.

Olympus attempts to cover this fatal flaw in its antitrust-based argument by blurring the reason why the Shipping Act defines the terms "inland discussions" and "inland portions" of through rates. The reason is not, as Olympus argues, to "exclude the ocean portion from the . . . 'inland portion.'" *Emergency Petition*, Exhibit A at 15. The purpose of these defined terms is to make it clear that ocean common carriers do not have antitrust immunity to jointly negotiate with other types of carriers (i.e., "air carriers, rail carriers, motor carriers, or common carriers by water not subject to [the Shipping Act]") concerning transportation within the United States. This includes negotiations with such carriers about what they will charge ocean common carriers for the inland division³ of through rates. *See*, 46 U.S.C. § 40307(b). This same section of the Shipping Act, however, makes it clear that ocean common carriers are entitled - - with antitrust immunity - - to jointly discuss and agree among themselves on the inland portion⁴ of through rates. *Id.* at (b)(12).

Thus, again, the true intent of the Shipping Act is exactly opposite to what Olympus asserts. The antitrust immunity provided by the Shipping Act can be applied to the inland portion of through rates and the Commission clearly has regulatory authority over the inland portions as components of through rates.

³ The inland division of a through rate is what the inland carrier charges the ocean carrier to provide the inland services. 46 U.S.C. § 40102(11).

⁴ The inland portion of a through rate is what the ocean carrier(s) charge the public as part of the through rate. 46 U.S.C. § 40102(12).

C. THE PETITION SEEKS RESOLUTION OF A PROBLEM THAT DOES NOT EXIST AND CONSTITUTES AN ABUSE OF THE COMMISSION'S RESOURCES

The alleged “problem” with which the petition is concerned is that Global Link allegedly “hopes to use the informal and largely private voluntary disclosure proceeding to obtain from BOE an ‘expert’ opinion for use in the commercial arbitration that it was unable to obtain by other means.” *Emergency Petition* at 2. The Commission’s Bureau of Enforcement (“BOE”), however, does not issue “expert opinions.” In neither the description of BOE’s functions in the Commission’s regulations at 46 C.F.R. § 501.5(i), nor in the delegations of authority to the Director of BOE set forth in the regulations at 46 C.F.R. § 501.28 is there any authorization for BOE to provide “expert opinions.”⁵ Further, a compromise agreement does not have any precedential force. Compromise agreements always contain an acknowledgement that the party settling with the Commission does not admit to the alleged violations. *See* 46 C.F.R. § 502.604, Appendix A (Example of Compromise Agreement). Thus, even if Global Link and BOE were to enter into a compromise agreement relating to the split delivery practices, such an agreement would not represent the “expert opinion” of the BOE, or constitute Commission precedent with regard to the activities at issue.

Further, while the petition asserts in various places that harm will be suffered by U.S. shippers, NVOCC’s and motor carriers, there is no particularized statement of the harm they will suffer or why they will suffer it. There is, for example, no allegation that it is a common practice for other NVOCC’s to issue fraudulent delivery orders to ocean common carriers or that they

⁵ Only the Commission’s General Counsel is authorized to provide legal opinions to the public. 46 C.F.R. § 501.5(d). When doing so, the General Counsel is typically careful to note that such opinions do not bind the Commission. *See, In the Matter of the Lawfulness of Unlicensed Persons Acting as Agents for Licensed Ocean Transportation Intermediaries, Slip Op.* at 24, n. 22.

attempt to conceal their re-routing activities from the ocean carriers.⁶ Nor is there any claim that any NVOCC's are engaging in such practices based on the good faith belief they are perfectly legal or that the Commission has no jurisdiction over them. There is also no allegation – much less a factual showing -- that FMC enforcement actions are imminent against other NVOCC's that are engaging in such practices. Olympus also fails to acknowledge there are lawful ways for NVOCC's to re-route cargo such as, for example, by requesting the ocean carrier to amend bills of lading in return for the payment of the different rate applicable to the new destination point,⁷ or by paying the carrier a diversion fee per the carrier's tariff for the privilege of re-routing, or by taking delivery of goods at the destination point on the ocean carrier's bill of lading and arranging for further transportation of the goods to a different point.

In fact, Olympus is attempting with this petition, to do what it wrongfully accuses Global Link of trying to do; that is, to use the Commission's resources for its own private ends. Manifestly, for all of its expressed concern for U.S. NVOCC's, importers, and motor carriers, it is obvious that Olympus is simply trying to use the Commission to make a point in the arbitration. Unlike Global Link, which under its new ownership is trying to mitigate the impact of past unlawful activities and establish a new pattern of regulatory compliance through its voluntary disclosure, Olympus is nakedly attempting to dragoon the Commission into a private dispute for its own selfish benefit to protect its ill-gotten gains from the sale of the company to

⁶ The Commission's regulations prohibit ocean transportation intermediaries from providing false information to ocean carriers. See 46 C.F.R. § 515.31(3) ("No licensee shall prepare or file or assist in the preparation or filing of any claim, affidavit, letter of indemnity, or other paper or document concerning an ocean transportation intermediary transaction which it has reason to believe is false or fraudulent, nor shall any such licensee knowingly impart to a principal, shipper, common carrier or other person, false information relative to any ocean transportation intermediary transaction.")

⁷ See, e.g., Mitsui O.S.K. Lines Ltd. Rules Tariff No. 200 (Asia to U.S., effective as of November 2005), Rule 104, Section 3(b) ("Diversion of Cargo") ("Diverted shipment will be assessed the rate(s) and/or charges from origin to destination to which diverted in accordance with tariffs on file with the FMC.")

an unsuspecting buyer who took Olympus' representations of no prior illegal activity at face value.⁸ This attempted abuse of the Commission's resources should not be permitted.

D. THE PETITION DOES NOT MEET THE STANDARDS FOR A DECLARATORY ORDER

Olympus has petitioned the Commission to issue a declaratory order pursuant to Rule 68, 46 C.F.R. § 502.68, for the purpose of "clarifying that the practice of re-routing domestic inland points (*sic*) in an intermodal movement by NVOCC's or other shippers does not violate the 1984 Act." *Emergency Petition* at 7. It is evident from its petition that the basis for any such declaration would be that the Commission has no jurisdiction over the domestic inland portion of a through transportation movement by an ocean common carrier, a position that cannot be supported, as discussed above. Whether or not this position has any merit, however, Olympus does not have the real, substantive interest in this issue that is required by Rule 68.

Olympus is not, and never was, subject to the regulatory jurisdiction of the Commission. Olympus is a private equity firm that does not operate any business subject to the Shipping Act. It is not an ocean common carrier, or a conference or an agreement of such carriers. It is not an ocean transportation intermediary or marine terminal operator. No matter what it does in its capacity as a private equity firm, it will be free of any regulatory consequences administered by the Commission. It does not, therefore, meet the critical requirement for a declaratory order in Rule 68, which states that:

The procedures of this section shall be invoked solely for the purpose of obtaining declaratory rulings which will allow persons to act without peril upon their own view. (underlining added)

⁸ In this regard, it may not be surprising that Olympus is taking this desperate measure of filing an "emergency" petition with the Commission after the arbitration hearings and presentation of evidence have been concluded. Apparently, Olympus is more concerned with the arbitrators' possible decision than with the impact of a compromise agreement between the BOE and Global Link.

Moreover, as set forth in the preceding section, Olympus has failed to identify any other person that is engaging in the type of activities formerly engaged in by Global Link, much less that they are doing so based on a good faith belief those activities are lawful or not subject to the jurisdiction the Commission. In short, there is nobody before the Commission who is seeking “to act without peril upon their own view.” Olympus’ petition for a declaratory order does not meet the requirements of Rule 68 and must, therefore, be denied.

E. A RULEMAKING IS NOT APPROPRIATE IN THE CIRCUMSTANCES OF THIS MATTER

1. The Petition for Rulemaking Should be Denied Because it Lacks the Required Verification.

Rule 51(a) of the Commission’s Rules of Practice and Procedure, 46 C.F.R. § 502.51(a), which sets forth the requirements for filing a petition for rulemaking, requires that all such petitions “shall be verified.” When a rule specifically requires that a document be verified, the signature of an attorney admitted to practice before the Commission is not sufficient. *See* 46 C.F.R. § 502.112(a) (“Except when otherwise specifically provided by rule or statute, such pleading, document or paper need not be verified or accompanied by an affidavit.” (underlining added)). Olympus’ petition is not verified, but only signed by an attorney. It is, therefore, procedurally deficient and must be rejected on that ground alone.

2. A Rulemaking is an Inappropriate Procedure to Resolve a Private Dispute

Rule 51 requires a petitioner for a rulemaking to “set forth its interest.” Here, Olympus has clearly set forth its interest as simply a party to a private dispute. As pointed out above, Olympus is not regulated by the Commission and has no stake whatsoever in the broader implications of the rule it is asking the Commission to issue. Olympus is seeking a rule that would have wide-ranging consequences for both the Commission and the ocean shipping

industry simply to help avoid an adverse result in an arbitration concerning activities that have already ceased. Olympus' "interest" in establishing a rule applicable to future behavior in the ocean shipping industry is non-existent. It is, therefore, an improper party to sponsor such a rule, not least because its interest has nothing in common with the wide range of potential interests of the entities in the industry that Olympus allegedly seeks to protect.

3. There is No Need for a Rule

Olympus has not provided any facts in its petition supporting the need for the rule it requests. Although it asserts that NVOCC's commonly re-route through transportation shipments, it offers no factual basis on which to conclude that any such re-routings would violate the Shipping Act. The statements in the "Expert Reports" attached to the petition⁹ are based on the following definition of the split shipment practices:

Split routing is a practice in the ocean transportation industry in which a shipper, such as an NVOCC, (1) contracts with the ocean carrier for the intermodal transportation of cargo to a "door destination, and (2) then directs a motor carrier to deliver the cargo to a destination other than the destination identified on the ocean carrier bill of lading ("OBL").

Expert Report of Steve Barnett at 3. This definition of split routing, or "split shipments," begs the question, as Olympus' expert reports do in general, of whether the split shipments they describe are performed lawfully or unlawfully through deception and fraud. Absent proof that significant portions of the NVOCC industry are engaging in deceptive and fraudulent re-routing activities based on a good faith belief they are acting lawfully, there is no need for a rulemaking to put the ocean shipping industry on notice of the Commission's jurisdictional reach. Moreover, given that, as discussed above, there is little doubt the Commission has jurisdiction over these

⁹ These expert reports were prepared for the arbitration. Global Link, of course, also had expert reports from experienced industry participants testifying to the contrary.

practices or that they violate the Shipping Act, there is clearly no reason for a rulemaking in this area.

As the leading treatise on administrative law states, “[a] petition for a rulemaking asks an agency, in effect, to devote a significant proportion of its scarce resources to a particular way of addressing a particular problem.” Davis, Administrative Law Treatise § 6.09 (Third Ed.1994). Olympus has not identified a “problem” worthy of the Commission’s expenditure of its scarce resources. Moreover, since the issue raised by Olympus involves the interplay of statutory interpretation with specific sets of facts, as evidenced by Global Link’s situation, the Commission and the industry would be better served by addressing any problems in this area, to the extent they actually exist, through adjudication on a case by case basis. Through such adjudications, the Commission can develop an understanding of the actual re-routing practices employed in the industry and better determine whether there is a need for rulemaking in this area.

F. THERE IS NO REASON FOR PUBLIC PARTICIPATION IN GLOBAL LINK’S SETTLEMENT NEGOTIATIONS

Olympus seeks to intervene in the settlement negotiations between Global Link and BOE while at the same time admitting it has already had an opportunity to make its case to BOE. *Emergency Petition* at 4.¹⁰ This is, therefore, merely another iteration of Olympus’ attempts to have the Commission take action to aid Olympus’ position in the arbitration. It is also an attempt to circumvent the Commission’s delegations of authority and established procedures for review of decisions taken by the Commission’s delegatee.

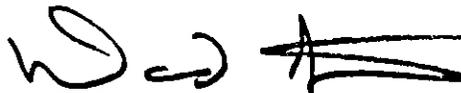
¹⁰ There is, of course, no “proceeding” in which Olympus can intervene. To remedy this fatal defect, Olympus asks the Commission to convert the informal settlement discussions between Global Link and BOE into a formal proceeding. There is simply no legitimate basis for such an unprecedented action.

The Commission has delegated to the Director of BOE the authority to negotiate and enter into compromise agreements. 46 C.F.R. § 501.28, 502.604(g). The actions of the BOE in entering into compromise agreements may be reviewed at any time by the Commission. 46 C.F.R. § 501.21(f). There is, as yet, no compromise agreement in place between Global Link and BOE. Thus, there is nothing for the Commission to review at this time. Permitting third parties to intervene in compromise negotiations would wreak havoc on the process and virtually guarantee that such negotiations would never succeed, to the detriment of both the Commission and the public. Olympus has not provided good cause for upsetting the Commission's process for reaching compromises. It has identified no "emergency." It has not even identified a problem, other than the fact it may be unsuccessful in a private arbitration. That is not a problem to which the Commission should devote public resources. Consequently, this portion of the petition should also be denied.

III. CONCLUSION

For all of the foregoing reasons, Global Link respectfully requests that Olympus' petition be denied in all respects.

Respectfully submitted,



David P. Street
GKG Law, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007
Telephone: 202/342-5200
Facsimile: 202/342-5219
Email: dstreet@gkglaw.com

Attorneys for GLOBAL LINK LOGISTICS, INC.

DATE: January 9, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Reply of Global Link Logistics, Inc. to Emergency Petition for Declaratory Order, Rulemaking or Other Appropriate Relief in Voluntary Disclosure Investigation on the following individuals, this 9th day of January, 2009 via first class mail, postage prepaid:

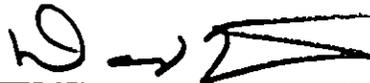
William H Stallings, Assistant Chief
Transportation, Energy, & Agriculture Section
Department of Justice
450 Fifth Street, NW
Room 4052
Washington, D.C. 20530

Tracey D. Chambers
Transportation, Energy & Agriculture Section
Department of Justice
450 Fifth Street, NW
Room 4652
Washington, D.C. 20530

Lewis R. Clayton
Andrew Gordon
Colin C. McNary
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064

Warren L. Dean, Jr.
Robert A. Shapiro
Sean McGowan
Thompson Coburn LLP
1909 K Street, N.W.
Suite 600
Washington, D.C. 20006

Vern Hill
George Quadrino
Federal Maritime Commission
Bureau of Enforcement
800 North Capitol Street, N.W.
Washington, D.C. 20573



David P. Street