

Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 2773.

Name: Ben & Brothers Forwarding Corp.

Address: 901 Castle Road, Secaucus, NJ 07094.

Date Revoked: January 22, 1997.

Reason: Failed to maintain a valid surety bond.

License Number: 3319.

Name: SBR International Corp.

Address: 1425 N.W. 88th Avenue, 1st Floor, Miami, FL 33172.

Date Revoked: January 29, 1997.

Reason: Failed to maintain a valid surety bond.

License Number: 2330.

Name: Leslie David Lewis d/b/a Les Lewis.

Address: 1010 East Dallas Road, Grapevine, TX 76051.

Date Revoked: January 30, 1997.

Reason: Surrendered license voluntarily.

License Number: 437.

Name: Leading Forwarders, Inc.

Address: 2975 Kennedy Blvd., Jersey City, NJ 07306.

Date Revoked: February 10, 1997.

Reason: Surrendered license voluntarily.

Bryant L. Van Brakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 97-5953 Filed 3-10-97; 8:45 am]

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Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Transglobal Solutions, 1808 Arlington Avenue, Torrance, CA 90501, Jin Miyamoto, Managing Partner, William Robert Parkinson, Partner, Jerry Lee Russell, Jr., Partner

International Transportation Services, Inc., 573 S.W. 169th Avenue, Fort Lauderdale, FL 33326, Officer: Steve M. Snyder, President

Hanover Shipping Corporation, 1 Gina Court, East Hanover, NJ 07936

Officers: Rohini Kumar Vemula, President, Divyajyothi R. Vemula, Director

Albany Freight, Inc., 5245 N.W. 36 Street, Suite 230, Miami Springs, FL 33166, Officer: Caridad C. Gonzalez, President

Dated: March 5, 1997.

Joseph C. Polking,

Secretary.

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[Docket No. 97-04]

Ever Freight International Ltd., Sigma Express Inc., and Mario F. Chavarria dba Transcargo Intl.—Possible Violations of Sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984; Order of Investigation and Hearing

Ever Freight International Ltd. ("Ever Freight") is a tariffed and bonded non-vessel-operating common carrier (NVOCC) located at 18th Floor, Kam Sang Building, 255-257 Des Voeux Road Central, Sheung Wan in Hong Kong. Ever Freight holds itself out as an NVOCC pursuant to its ATFI tariff FMC No. 001, filed June 17, 1996.

Ever Freight currently maintains an NVOCC bond, No. 8941414, in the amount of \$50,000 with the Washington International Insurance Company, located in Schaumburg, Illinois. Pursuant to Rule 24 of Ever Freight's tariff, Washington International Insurance Company also serves as the U.S. resident agent for purposes of receiving service of process on behalf of Ever Freight International Ltd.

Ever Freight is believed to have been established by former employees of Goldline Ltd., an NVOCC which has operated without a tariff or bond since May 1995.¹ Likewise, Ever Freight is believed to have operated as an NVOCC from March 1996 through June 16, 1996 without benefit of the bond or tariff required by the 1984 Act. During that period and at times subsequent to the filing of its tariff and bond, Ever Freight participated in numerous apparent acts of misdescription of cargo on shipments from Hong Kong to the U.S., in concert with U.S. consignees Sigma Express Inc. and Mario F. Chavarria d/b/a/ Transcargo International, among others.

Respondent Sigma Express Inc. ("Sigma Express") is a tariffed and

bonded NVOCC located at 11222 La Cienaga Blvd., Suite 330, Inglewood, California 90304. The President of Sigma Express is Echo Tsai. As relevant herein, Sigma Express acts as the U.S. consignee and notify party on certain inbound NVOCC shipments from Ever Freight.

Respondent Mario F. Chavarria is a licensed ocean freight forwarder (FMC license No. 4175) and a tariffed and bonded NVOCC doing business as Transcargo International ("Transcargo"). Transcargo's offices are located at 5155 Rosecrans Avenue, Suite 110, Hawthorne, California 90250. As relevant herein, Transcargo acts as the U.S. consignee and notify party on certain inbound NVOCC shipments from Ever Freight.

It appears that Ever Freight, acting as shipper in relation to an ocean common carrier, misdescribed the commodity on numerous shipments transported by an ocean common carrier between March 1, 1996 and December 31, 1996.² The shipments primarily originated in Hong Kong, and were destined for Los Angeles and other U.S. ports and points. In each of these instances, Ever Freight was listed as shipper on the ocean carrier's bill of lading, and Ever Freight destination agents in the U.S., including respondents Sigma Express and Transcargo, acted as the consignee or notify party. Each shipment generally reflects that an Ever Freight "house", or NVOCC, bill of lading was issued for tender by the ultimate consignee to Ever Freight's agent upon arrival of the cargo at destination, which correctly describes the commodity shipped.

It further appears that the ocean common carrier rated the commodities in accordance with the inaccurate description furnished by Ever Freight, while the U.S. consignees of Ever Freight's shipments accepted delivery of the cargo and made payment to the ocean common carrier on the basis of the lower rate attributable to the inaccurate commodity description. Contemporaneous with the payment of any freight due to the ocean common carrier, Ever Freight's agents in the U.S. also would issue arrival notices and

² Based on import data available from the PIERS subsidiary of the Journal of Commerce, Ever Freight has acted as shipper on over 1100 inbound shipments during the nine month period ending November 1996, accounting for nearly 2700 TEUs of cargo. PIERS reports that the primary ocean common carriers transporting cargo on behalf of Ever Freight are Sea-Land and Hanjin Shipping, which together account for 95% of the total tonnage moved during this period. More than 200 of these shipments originated during the months of March-June 1996, at a time when Ever Freight did not yet have any tariff rates effective for its NVOCC services.

¹ Goldline currently operates under the name Comm-Sino Ltd. but has adopted numerous pseudonyms in the past, including Harvesta Ltd., Gain Sharp Trading, Truwest Ltd., Vastmas Intl. Ltd. and Wellsources Ltd. A formal investigation, FMC Docket No. 96-19, is presently underway as to Comm-Sino, alleging violations of sections 10(a)(1) and 10(b)(1).

obtain payment of the NVOCC's freight charges from the U.S. importer, in each case correctly describing the commodity based on actual contents shipped.

In addition, during time periods subsequent to the filing of Ever Freight's NVOCC tariff and bond in June 1996, Ever Freight appears both as shipper and as a carrier issuing its own (Ever Freight) NVOCC bill of lading with respect to the commodity being shipped. The rates assessed and collected by Ever Freight and its U.S. agents for these shipments, however, bear no relation to the rates set forth in Ever Freight's ATFI tariff on file with the Commission.³ Since Ever Freight has never subsequently modified its tariff rates, it would appear that all shipments in which Ever Freight issued its NVOCC bill of lading may be found to constitute violations of section 10(b)(1) of the 1984 Act.

Section 10(a)(1) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. § 1709(a)(1), prohibits any person knowingly and willfully, directly or indirectly, by means of false billings, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means, to obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable. Section 10(b)(1), 46 U.S.C. app. § 1709(b)(1), prohibits a common carrier from charging, collecting or receiving greater, less or different compensation for the transportation of property than the rates and charges set forth in its tariff. Under section 13 of the 1984 Act, 46 U.S.C. app. § 1712, a person is subject to a civil penalty of not more than \$25,000 for each violation knowingly and willfully committed, and not more than \$5,000 for other violations. Section 13 further provides that a common carrier's tariff may be suspended for violations of section 10(b)(1) for a period not to exceed one year, while section 23 of the 1984 Act, 46 U.S.C. app. § 1721 provides for a similar suspension in the case of violations of section 10(a)(1) of the 1984 Act. Finally, section 19(b) of the 1984 Act, 46 U.S.C. app. § 1717(b), provides that the license of a freight forwarder shall be suspended or revoked if it appears that the licensee is no longer qualified to render forwarding services to the public or has willfully

failed to comply with any provisions of the 1984 Act.

Now therefore, it is ordered, That pursuant to section 10, 11, 13, 19 and 23 of the 1984 Act, 46 U.S.C. app. §§ 1709, 1710, 1712, 1717 and 1721, an investigation is instituted to determine:

(1) Whether Ever Freight International Ltd., Sigma Express Inc., and Mario Chavarria dba Transcarga International, violated section 10(a)(1) of the 1984 Act by directly or indirectly obtaining transportation at less than the rates and charges otherwise applicable through the means of misdescription of the commodities actually shipped;

(2) Whether Ever Freight International Ltd., in its capacity as a common carrier, violated section 10(b)(1) of the 1984 Act by charging, demanding, collecting or receiving less or different compensation for the transportation of property than the rates and charges shown in its NVOCC tariff;

(3) Whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, civil penalties should be assessed against Ever Freight International Ltd., Sigma Express Inc. and Mario F. Chavarria dba Transcarga International and, if so, the amount of penalties to be assessed against any or all of the parties;

(4) Whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, the tariff of Ever Freight International Ltd. should be suspended;

(5) Whether, in the event violations of sections 10(a)(1) of the 1984 Act are found, the freight forwarding license of Mario F. Chavarria should be suspended or revoked; and

(6) Whether, in the event violations are found, an appropriate cease and desist order should be issued against any or all of the parties.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's rules of practice and procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only after consideration has been given by the parties and the Presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or

other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That Ever Freight International Ltd., Sigma Express Inc. and Mario F. Chavarria dba Transcarga International are designated as Respondents in this proceeding;

It is further ordered, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the Federal Register, and a copy be served on parties of record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure, 46 CFR 502.72;

It is further ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in accordance with Rule 118 of the Commission's rules of practice and procedure, 46 CFR 502.118, and shall be served on parties of record; and

It is further ordered, That in accordance with Rule 61 of the Commission's rules of practice and procedure, the initial decision of the Administrative Law Judge shall be issued by March 6, 1998 and the final decision of the Commission shall be issued by July 6, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 97-6038 Filed 3-10-97; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 952-3275]

Apple Computer, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to

³ Since filing its tariff in the ATFI system in June 1996, Ever Freight has maintained a tariff consisting only of three classes of Cargo N.O.S. rates. Ever Freight does not publish "per container" rates, nor does it appear to charge those Cargo N.O.S. rates which it does publish, inasmuch as its rates are tariffed solely on a weight/measurement (W/M) ton basis.