

October 16, 1998, and related determinations.

EFFECTIVE DATE: January 29, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Bryant Harrison of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Nellie Ann Mills as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.

James L. Witt,

Director.

[FR Doc. 99-4266 Filed 2-19-99; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL MARITIME COMMISSION

[Docket No. 99-03]

I Chen "Jenny" Chiang dba Prestige Forwarding Co. and Hsueh L. "Frank" Wu—Possible Violations of Sections 10(a)(1) and 19(d) of the Shipping Act of 1984, and 46 CFR Part 510; Order of Investigation and Hearing

Respondent I Chen "Jenny" Chiang is a resident of Cerritos, California. From November 6, 1995 through April 15, 1998, Ms. Chiang was licensed by the Federal Maritime Commission as an ocean freight forwarder doing business as Prestige Forwarding Co. ("Prestige Forwarding"), FMC No. 4038. Jenny Chiang served as qualifying individual in applying for the forwarder license and was the only apparent employee of Prestige Forwarding. Following commencement of an investigation by the Commission regarding the activities of Prestige Forwarding, Ms. Chiang surrendered the freight forwarder license of Prestige Forwarding.

Respondent Hsueh L. "Frank" Wu is the husband of Jenny Chiang. Mr. Wu is employed as a sales representative of Hyundai Merchant Marine Co. Ltd. ("Hyundai"), located in Gardena, CA. Jenny Chiang and Frank Wu reside at 13630 Destino Place, Cerritos, CA, which address also served as the offices of Prestige Forwarding throughout the time in question.

Information obtained by the Commission indicates that Prestige Forwarding collected forwarder compensation from Hyundai and other ocean common carriers without providing any forwarding services or furnishing to the carrier the requisite certification entitling Prestige Forwarding to the payment of forwarder compensation thereon. Shipments on which Prestige Forwarding collected forwarder compensation appear to be tied primarily to cargo accounts then being serviced by Frank Wu at Hyundai, as well as to certain non-vessel-operating common carriers ("NVOCCs") transporting cargo on the vessels of Hyundai and others. It further appears that Frank Wu offered to return to certain NVOCCs a portion of the freight forwarder compensation received by Prestige Forwarding on those shipments for which Prestige Forwarding was designated as freight forwarder on the respective ocean bills of lading.

Section 19(d) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. § 1718(d), provides that an ocean freight forwarder may receive compensation only when such forwarder has performed specified services relating to securing the shipment and preparing the documentation thereon, and has furnished written certification to the carrier that it possesses a valid license and performed those services entitling the forwarder to compensation. The Commission's freight forwarder regulations, 46 CFR part 510, iterate the statutory requirements that a forwarder may receive compensation only where it has certified that it has performed the services entitling it to payment. 46 CFR 510.23. Section 10(a)(1) of the 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. The Commission's freight forwarder regulations carry forward the statutory requirements by prohibiting a licensed forwarder from sharing any portion of its fee or freight forwarder

compensation with any shipper or employee thereof. 46 CFR 510.22.

It appears that, beginning no later than January 1997, Prestige Forwarding received compensation as an ocean freight forwarder without performing those services required for the payment of freight forwarder compensation. Under section 19 of the 1984 Act, the provision of forwarding services and good faith certification to the ocean common carrier is a statutory condition precedent to the payment and receipt of freight forwarder compensation. It further appears that Ms. Chiang's husband, Frank Wu, actively participated in establishing and implementing a scheme or device to extract money from ocean common carriers essentially under false pretenses. Since January 1997, compensation apparently was collected by Prestige Forwarding on more than 1500 shipments transported on Hyundai, without performing the services of a freight forwarder and without furnishing the requisite certification that such forwarder then possessed a valid license and had performed services entitling the licensee to the receipt of freight forwarder compensation. By so doing, it appears that Frank Wu and Jenny Chiang, individually and acting as Prestige Forwarding, violated section 19(d) of the 1984 Act, and also violated the Commission's forwarder regulations at 46 CFR § 510.23.

In addition, it appears that Prestige Forwarding remitted part of its forwarder compensation to its NVOCC shippers, and that checks were issued by Prestige Forwarding reflecting such payments. It further appears that Jenny Chiang's husband, Frank Wu, exercised a primary role in initiating and carrying out such arrangement with respect to such NVOCCs, and possibly other shipper accounts of Prestige Forwarding or Hyundai. In remitting or returning to the shippers a portion of the compensation paid to Prestige on their shipments, it appears that Respondents have sought unlawfully to lower the freight charges of the NVOCC-shippers. See, e.g. Pacon Express Inc., Luis R. Hallon and Sun Bong—Possible Violations of Sections 10(a)(1) and 19(d)(4) of the Shipping Act of 1984, 28 S.R.R. 352 (I.D., May 5, 1998) (Administratively final June 19, 1998). In doing so, it appears that Frank Wu and Jenny Chiang, individually and acting as Prestige Forwarding, violated section 19(a)(1) of the 1984 Act and also violated the Commission's forwarder regulations at 46 CFR 510.22(a).

Section 11 of the 1984 Act, 46 U.S.C. app. § 1710, sets forth the Commission's

authority to investigate violations of the 1984 Act. 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 of the 1984 Act or regulations issued thereunder.¹

Now therefore, it is ordered, That pursuant to sections 10, 11, 13 and 19 of the 1984 Act, 46 U.S.C. app. §§ 1709, 1710, 1712 and 1718, an investigation is instituted to determine:

(1) Whether Hsueh L. "Frank" Wu and I Chen "Jenny" Chiang, individually and doing business as Prestige Forwarding Co., violated section 19(d) of the 1984 Act, 46 U.S.C. app. § 1718(d), and the Commission's forwarder regulations at 46 CFR Part 510, by obtaining ocean freight forwarder compensation on shipments for which the Prestige Forwarding did not furnish freight forwarding services nor provide the necessary certification to the carrier entitling the forwarder to receive such compensation;

(2) Whether Frank Wu and Jenny Chiang, individually and doing business as Prestige Forwarding Co., violated section 10(a)(1) of the 1984 Act, 46 U.S.C. app. § 1709(a)(1), and the Commission's forwarder regulations at 46 CFR Part 510, by allowing shippers to obtain transportation for property at less than the rates or charges otherwise applicable by unjust or unfair device or means of rebating or remitting to such shippers a portion of the forwarder compensation earned on their respective shipments;

(3) Whether, in the event violations of sections 10(a)(1) and 19(d) of the 1984 Act and 46 CFR Part 510 are found, civil penalties should be assessed against Frank Wu and Jenny Chiang and, if so, the amount of penalties to be assessed;

(4) Whether, in the event violations of sections 10(a)(1) and 19(d) of the 1984 Act and 46 CFR Part 510 are found, an appropriate cease and desist order should be issued.

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 Hsueh L. "Frank" Wu and I Chen "Jenny" Chiang are designated 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, D.C. 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 February 16, 2000, and the final decision of the Commission shall be issued by June 15, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-4234 Filed 2-19-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 99-02]

Pacific Champion Express Co., Ltd.—Possible Violations of Section 10(b)(1) of the Shipping Act of 1984; Order of Investigation and Hearing

Pacific Champion Express Co., Ltd. ("Pacific Champion"), also doing business as PCS Line, as a tariffed and bonded non-vessel-operating common carrier ("NVOCC") located at 5th Floor, No. 7, Section 2 Nan King East Road, Taipei, Taiwan. Pacific Champion holds itself out as an NVOCC pursuant to its ATFI tariff FMC No. 011283-002, effective July 29, 1993. Pacific Champion currently maintains an NVOCC bond, No. 8941012, in the amount of \$50,000 with the Washington International Insurance Company, located in Schaumburg, Illinois.

Pacific Champion was established in 1981 by Roger Tsai who is also Managing Director of the company and owns 63% of the company stock. Pacific Champion is a private, limited stock company, registered in Taiwan on July 16, 1981 under business registration number 12340449. Other principals in the company include Frances Huan, Manager, and Michael Lin, Administrative Manager.

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. It appears that Pacific Champion did not charge the rates set forth in its tariff on at least thirty-six (36) shipments for the time period September 30, 1997 to February 10, 1998. For these same shipments, Pacific Champion also failed to charge a \$45 documentation fee required per its tariff rules. Furthermore, for nine of the 36 shipments, Pacific Champion failed to charge the minimum bill of lading charge per its tariff rules.

It also appears that Pacific Champion continues to provide service as an NVOCC under a tariff which contains only three rates, one each for Cargo NOS, regular service; Cargo NOS, premium service; and Cargo NOS, superior service. Therefore, unless all shipments have been rated at one of these Cargo NOS rates, Pacific Champion may have continued to violate section 10(b)(1) subsequent to February 10, 1998.

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

¹ These penalties are increased 10 percent for any violations occurring after November 7, 1996. See *Inflation Adjustment of Civil Penalties*, 61 Fed. Reg. 52704 (October 8, 1996).