

and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon 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 matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 11, 2003, and the final decision of the Commission shall be issued by December 12, 2003.

**Bryant L. VanBrakle,**

*Secretary.*

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## FEDERAL MARITIME COMMISSION

[Docket No. 02-10]

### **All Flags Forwarding Inc.—Possible Violations of Sections 10(a)(1) and 19(d) of the Shipping Act of 1984, as Well as Section 19(c) of the Shipping Act of 1984 as Amended by the Ocean Shipping Reform Act of 1998; Order of Investigation and Hearing**

Notice is given that on August 1, 2002, the Federal Maritime Commission served an Order of Investigation and Hearing on All Flags Forwarding, Inc. ("All Flags"). All Flags is a previously licensed ocean transportation intermediary ("OTI") operating as a freight forwarder and a non-vessel-operating common carrier. Until May 12, 2002, All Flags maintained an ocean freight forwarder bond and an NVOCC bond. Subsequent to the termination of All Flags' financial responsibility on May 12, 2002, its OTI license was automatically revoked on the same date pursuant to the Commission's regulations at 46 CFR 515.26.

It appears that between April 2, 1997 and August 17, 1999, All Flags and its principals knowingly and willfully collected freight forwarder compensation from at least three ocean common carriers on thousands of shipments without performing any of the required functions. This activity appears to have resulted from another NVOCC consistently listing All Flags and the name of its President in the freight forwarder box on oceans bills of lading for shipments processed entirely

by that NVOCC's employees. Furthermore, between April 18, 1997 and December 15, 1998, it appears that on at least twenty-one occasions All Flags and its principals knowingly and willfully shared a portion of the compensation with the NVOCC.

This proceeding therefore seeks to determine (1) whether All Flags violated section 10(a)(1) of the Shipping Act of 1984 ("1984 Act") and 46 CFR 510.22(a) by directly allowing another NVOCC to obtain ocean transportation at less than the rates and charges otherwise applicable by knowingly and willfully sharing a portion of its unwarranted freight forwarder compensation with that NVOCC; (2) whether All Flags violated section 19(d) of the 1984 Act and 19(e) of the 1984 Act as amended, as well as 46 CFR parts 510 and 515 as amended, by knowingly and willfully obtaining freight forwarder compensation without performing the services required for the receipt of such compensation; (3) whether, in the event violations of sections 10(a)(1), 19(d), and 19(e) of the 1984 Act and/or 46 CFR parts 510 and 515 are found, civil penalties should be assessed and, if so the amount, and (4) whether, in the event violations are found, an appropriate cease and desist order should be issued.

The full text of the Order may be viewed on the Commission's home page at <http://www.fmc.gov/> or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person may file a petition for leave to intervene in accordance with 46 CFR 502.72.

**Bryant L. VanBrakle,**

*Secretary.*

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## FEDERAL MARITIME COMMISSION

[Docket No. 02-11]

### **Empire United Lines Co., Inc.—Possible Violations of Sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984, and Section 10(b)(2)(A) of the Shipping Act of 1984 as Amended by the Ocean Shipping Reform Act of 1998, as Well as the Commission's Regulations at 46 CFR 515.31(e) as Amended; Order of Investigation and Hearing**

Notice is given that on August 1, 2002, the Federal Maritime Commission served an Order of Investigation and Hearing on Empire United Lines Co., Inc. ("Empire") an ocean transportation intermediary ("OTI") operating as a

non-vessel-operating common carrier. It appears that, with respect to thousands of shipments between April 2, 1997 and October 5, 1999, Empire knowingly and willfully provided false information by listing a freight forwarder on numerous bills of lading for Empire's shipments thereby allowing the freight forwarder to collect unwarranted compensation from several ocean common carriers. Also, between April 18, 1997 and December 15, 1998, it appears that on at least twenty-one occasions Empire collected a portion of the unwarranted compensation from the freight forwarder through invoices for various alleged services and products. It further appears that during the same approximate time period, Empire processed twenty shipments documented by invoices that indicate that the rates assessed and collected differ from those set forth in Empire's ATFI tariff.

This proceeding therefore seeks to determine (1) whether Empire violated section 10(a)(1) of the Shipping Act of 1984 ("1984 Act") by knowingly and willfully obtaining transportation at less than the rates and charges otherwise applicable by the receipt of an unlawful rebate resulting from Empire's collection of a portion of unwarranted freight forwarder compensation from another OTI; whether Empire violated section 10(b)(1) of the 1984 Act and 10(b)(2)(A) of the 1984 Act as amended, by charging different compensation for the transportation of property than the rates set forth in its published tariff; whether Empire violated the Commission's regulations at 46 CFR 515.31(e) as amended, by knowingly and willfully providing false information to several ocean common carriers on documents concerning Empire's shipments; whether, in the event violations of sections 10(a)(1), 10(b), and 10(b)(2)(A) of the 1984 Act and/or 46 CFR 515.31(e) are found, civil penalties should be assessed against Empire and, if so, the amount of the penalties to be assessed; whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, the tariff of Empire should be suspended; whether the OTI license of Empire should be suspended or revoked; and whether, in the event violations are found, an appropriate cease and desist order should be issued.

The full text of the Order may be viewed on the Commission's home page at <http://www.fmc.gov/> or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person may file a petition for leave