

President, Lawrence F. Bauer,
Secretary

Dated: October 23, 1996.

Joseph C. Polking,
Secretary.

[FR Doc. 96-27625 Filed 10-28-96; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 96-19]

Comm-Sino Ltd., Possible Violations of Sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984; Order of Investigation and Hearing

Comm-Sino Ltd. is a tariffed and bonded non-vessel-operating common carrier ("NVOCC") located at Flat E, 21st Floor, Block 7, Phase V, Greenwood Court, Greenvale in Hong Kong. Comm-Sino holds itself out as an NVOCC pursuant to its filed tariff FMC No. 001, filed November 9, 1995.

Comm-Sino currently maintains an NVOCC bond, No. 5888, in the amount of \$50,000 with the American Contractors Indemnity Company, located in Los Angeles, California. Pursuant to Rule 24 of Comm-Sino's tariff, American Contractors Indemnity Company also serves as the U.S. resident agent for purposes of receiving service of process on behalf of Comm-Sino Ltd.

It appears that Comm-Sino, acting as shipper on certain shipments on which either Comm-Sino or its untariffed affiliate Goldline Ltd.¹ was acting as NVOCC, misdescribed the commodity on at least 13 shipments² transported by an ocean common carrier between December 2, 1995 and February 22, 1996. The shipments originated in Hong Kong and were destined for Miami and other locations in Florida. In each of these instances, Comm-Sino was listed as shipper on the ocean carrier's bill of lading, and destination agents in the U.S. for Comm-Sino or Goldline acted as the consignee or notify party. Each shipment reflects that a Comm-Sino or Goldline "house", or NVOCC, bill of lading was issued for tender by the ultimate consignee to Goldline's agent upon arrival of the cargo at destination, which correctly describes the commodity shipped.

In each of the thirteen (13) instances cited, the ocean common carrier rated the commodities in accordance with the inaccurate description furnished by Comm-Sino, while the NVOCC's agents accepted delivery of the cargo and made payment to the ocean common carrier

on the basis of the lower rate attributable to the misdescribed commodity. Contemporaneous with its payment of the freight due, Goldline agents in the U.S. also would make entry of the goods through the U.S. Customs Service, in each case correctly describing the commodity based on actual contents shipped and paying the applicable duty, if any.

While it appears that a Goldline house bill of lading may have been issued even in those instances where its tariffed NVOCC affiliate Comm-Sino is identified as the shipper on the master bill of lading, in at least four instances³ occurring between March 1 and April 3, 1996, Comm-Sino appears both as shipper and as a carrier issuing its own (Comm-Sino) NVOCC bill of lading with respect to the commodity being shipped. The rates assessed and collected by Comm-Sino and its U.S. agents for these shipments, however, bear no relation to the rates set forth in Comm-Sino's ATFI tariff then on file with the Commission.⁴

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. section 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. section 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.

Now therefore, *it is ordered*, That pursuant to sections 10, 11, and 13 of the 1984 Act, 46 U.S.C. app. sections

³ Also shown in Attachment A.

⁴ Since filing its tariff in the ATFI system in November 1995, Comm-Sino has maintained only a "shell" tariff consisting of three classes of Cargo N.O.S. rates. Comm-Sino 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.

1709, 1710, and 1712, an investigation is instituted to determine:

(1) Whether Comm-Sino Ltd., in its capacity as a shipper in relation to an ocean common carrier, 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 Comm-Sino 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 and, if so, the amount of such penalties;

(4) Whether, in the event violations of sections 10(b)(1) of the 1984 Act are found, the tariff of Comm-Sino Ltd. should be suspended; and

(5) Whether, in the event violations 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 Comm-Sino Ltd. is designated a Respondent 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;

¹ Prior to May 25, 1995, Goldline Ltd. was a tariffed and Bonded NVOCC.

² These shipments are identified in Attachment A hereto.

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 October 27, 1997 and the final decision of the Commission shall be issued by February 20, 1998.

Joseph C. Polking,
Secretary.

ATTACHMENT A—LIST OF COMM-SINO LTD. SHIPMENTS

Carrier	Vessel	Voy.	Discharge	Bill of lading No.	Arrived
Shipments Involving Alleged Section 10(a)(1) Violations					
SeaLand	Marchen Maersk	602	Miami	SEAU955353956	2-21-96
SeaLand	Marchen Maersk	602	Miami	SEAU955353955	2-21-96
SeaLand	Mette Maersk	602	Miami	SEAU955350733	1-31-96
SeaLand	Maren Maersk	602	Miami	SEAU955344818	1-24-96
SeaLand	Maren Maersk	602	Miami	SEAU955344820	1-24-96
SeaLand	Madison Maersk	602	Miami	SEAU955342729	1-11-96
SeaLand	Madison Maersk	602	Miami	SEAU955342320	1-11-96
SeaLand	McKinney Maersk	602	Miami	SEAU955341550	1-4-96
SeaLand	Magleby Maersk	602	Miami	SEAU955334898	12-26-95
SeaLand	Magleby Maersk	602	Miami	SEAU955334897	12-26-95
SeaLand	Magleby Maersk	602	Miami	SEAU955334896	12-26-95
SeaLand	Magleby Maersk	602	Miami	SEAU955334895	12-26-95
SeaLand	Magleby Maersk	602	Miami	SEAU955340690	12-26-95
House B/L No.	Vessel	Voy.	Discharge	Master B/L No.	Arrived
Shipments Involving Alleged Section 10(b)(1) Violations					
GL603HEI072	SL Racer	001	L.A	SEAU955363709	3-17-96
GL603HEI014	SL Racer	001	L.A	SEAU955363357	3-17-96
GL603HEI130	SL Meteor	002	Oakland	SEAU955364021	3-25-96
GL603HEI093	Maj. Maersk	604	Miami	SEAU955363878	4-3-96

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FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of

Governors. Comments must be received not later than November 12, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272;

1. *Dolph Briscoe, Jr., and Janey S. Briscoe*, both of Uvalde, Texas; to acquire an additional 58.41 percent, for a total of 59.18 percent, of the voting shares of Zavala Bankshares, Inc., Crystal City, Texas, and thereby indirectly acquire Zavala County State Bank, Crystal City, Texas.

2. *James David Williams*, Plainview, Texas; to acquire an additional 20.69 percent, for a total of 36.96 percent, and Brian Joseph Pohlmeier, Plainview, Texas, to acquire an additional 8.39 percent, for a total of 9.35 percent, of the voting shares of HaleCo Bancshares, Inc., Plainview, Texas, and thereby indirectly acquire Hale County State Bank, Plainview, Texas.

Board of Governors of the Federal Reserve System, October 23, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

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Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank