

Number of Petitions Filed: 13.

Subject: Administration of the North American Numbering Plan Carrier Identification Codes (CICs). (CC Docket No. 92-237).

Number of Petitions Filed: 3.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

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FEDERAL MARITIME COMMISSION

[Docket No. 97-09]

Topocean Consolidation Service Ltd., Topocean Consolidation Service (Los Angeles) Inc. and Topocean Consolidation Service (New York) Inc. Possible Violations of Sections 8, 23(a) and 10(a)(1) of the Shipping Act of 1984; Order of Investigation and Hearing

Topocean Consolidation Service Ltd. ("Topocean Taiwan") is a tariffed and bonded non-vessel-operating common carrier ("NVOCC") located at 11F-1, 316, Sec. 5 Nan-King East Road, Taipei, Taiwan. Topocean Taiwan holds itself out as a NVOCC pursuant to its Automated Tariff Filing and Information System ("ATFI") tariff, FMC No. 012067-002, effective June 12, 1996. According to Rule 24 of its tariff, Topocean Taiwan's resident agent in the United States for service of process is Topocean Consolidation Service (Los Angeles) Inc. located at 3780 W. Century Blvd., Inglewood, CA 90303. Between October 20, 1993 and September 15, 1995, Topocean Taiwan maintained an ATFI tariff (FMC No. 012067-001) which was canceled by the Federal Maritime Commission ("Commission") in September 1995 for Topocean Taiwan's failure to maintain a NVOCC bond. In conjunction with filing its current tariff, Topocean Taiwan furnished a NVOCC bond, No. 18017, effective May 2, 1996 and issued by American Contractors Indemnity Company in Los Angeles, CA.

Topocean Consolidation Service (Los Angeles) Inc. ("Topocean LA") is a tariffed and bonded NVOCC located at 3780 W. Century Blvd., Inglewood, CA. Topocean LA holds itself out as a NVOCC pursuant to its ATFI tariff, FMC No. 014097-001, effective June 12, 1996. Topocean LA maintains a NVOCC bond, No. 15885, issued by American Contractors Indemnity Company, located in Los Angeles, CA. Topocean LA is a United States destination agent for shipments from Topocean Taiwan.

Topocean Consolidation Service (New York) Inc. ("Topocean NY") is a destination agent in the New York area for shipments from Taiwan and Hong Kong. Topocean NY is located at 145-17 155th St., Jamaica, NY 11434. It does not maintain with the Commission a NVOCC bond and tariff nor is it a licensed ocean freight forwarder. Topocean NY is a United States destination agent for shipments from Topocean Taiwan.

Topocean Taiwan appears to have operated as a NVOCC on numerous shipments between September 16, 1995 and June 11, 1996. A NVOCC is a common carrier that holds itself out to the public as a provider of ocean transportation for compensation and acts as a shipper in its relationship with an ocean common carrier for the transportation of cargo of other persons. Topocean Taiwan's ocean shipments originated in Taiwan and were discharged at United States ports. Each shipment generally reflects that a Topocean Taiwan "house", or NVOCC, bill of lading was issued in which Topocean Taiwan held itself out as a provider of ocean transportation. The NVOCC bill of lading would be tendered by the ultimate consignee to one of Topocean Taiwan's destination agents¹ upon arrival of the cargo at its United States destination. In each of these instances, Topocean Taiwan was listed as shipper on the ocean carrier's bill of lading. Thus, Topocean Taiwan, by providing and holding out to the public to provide transportation by water of cargo for compensation and by contracting as a shipper in relation to a common carrier for the transportation of cargo of other persons, appears to have operated as a NVOCC for these shipments.

According to the records of the Commission's Bureau of Tariffs, Certification and Licensing ("BTCL"), Topocean Taiwan did not have an effective tariff during this time period. Section 8 of the Shipping Act of 1984 ("1984 Act"), 46 USC app. 1707, provides that no common carrier may provide service in the United States foreign trade unless the carrier first has filed a tariff with the Commission showing all of its rates, charges and practices. Section 8 also states that no new rates may become effective earlier than 30 days after filing at the Commission. The Commission's regulations implementing this statutory provision, at 46 CFR 514.9(b)(9)(i)(A),

explain that "[n]ew tariffs * * * shall * * * be filed to become effective not earlier than 30 days after the date of filing."² Therefore, it would appear that Topocean Taiwan may have acted as a NVOCC for shipments which occurred between September 16, 1995, and June 11, 1996, without an effective tariff in violation of section 8 of the 1984 Act.

Section 23(a) of the 1984 Act, 46 U.S.C. app. 1721(a), requires every NVOCC to furnish to the Commission "a bond, proof of insurance, or other such surety, as the Commission may require." Between September 16, 1995 and May 2, 1996, Topocean did not furnish a bond, proof of insurance or other such surety to the Commission as required by section 23(a). Therefore, Topocean Taiwan appears to have acted as a NVOCC for shipments which occurred between September 16, 1995 and May 2, 1996, without a bond, proof of insurance or other such surety in violation of section 23(a) of the 1984 Act.

It appears that Topocean LA and Topocean NY, in concert with Topocean Taiwan, knowingly and willfully obtained or attempted to obtain ocean transportation for cargo at less than the applicable rates in violation of section 10(a)(1) of the 1984 Act, 46 U.S.C. 1709(a)(1), by means of misdescription of commodities for numerous shipments transported by ocean common carriers between September 1, 1995 and April 30, 1997. Section 10(a)(1) of the 1984 Act prohibits any person knowingly and willfully, directly or indirectly, by means of false billing, 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.

It appears that the misdescribed shipments originated in Taiwan or Hong Kong and were discharged at or via United States ports. In each of these instances, Topocean Taiwan usually was listed as shipper on the ocean carrier's bill of lading, and the destination agents, Topocean LA and Topocean NY, acted as the consignee or notify party. Each shipment generally reflects that a Topocean Taiwan "house", or NVOCC, bill of lading, which correctly describes the commodity shipped, was issued for tender by the ultimate consignee to Topocean LA or Topocean NY upon

¹Topocean Taiwan has at least three United States destination agents: Topocean LA, Topocean NY and Apex Maritime Co., Inc. (located near San Francisco, CA).

²The Commission's regulations at 46 CFR 514.1(e)(1), provide that "[o]perating without an effective tariff on file with the Commission * * * is unlawful."

arrival of the cargo at destination. The commodity descriptions on the NVOCC bills of lading do not match the commodity descriptions set forth on the ocean common carriers' bills of lading. According to the ocean common carriers' tariffs and service contracts, the commodities described on the ocean common carriers' bills of lading appear to have lower rates than the commodities described on the NVOCC's bills of lading.

It further appears that the ocean common carriers rated the commodities in accordance with the inaccurate descriptions, while Topocean LA and Topocean NY accepted delivery of the cargo and paid ocean freight to the ocean common carriers on the basis of the lower rates attributable to the inaccurate commodity descriptions. Contemporaneous with the payment of freight, Topocean LA and Topocean NY issued arrival notices to the U.S. importers, which correctly described the commodity based on actual contents shipped. The resulting profit on these shipments would be divided equally between the United States destination agent (Topocean LA or Topocean NY) and Topocean Taiwan. Thus, Topocean NY and Topocean LA appear to have increased their profits on these shipments because of the misdescriptions. Therefore, it seems that Topocean LA and Topocean NY knowingly and willfully obtained or attempted to obtain ocean transportation for property at less than the applicable rates in violation of section 10(a)(1) of the 1984 Act.

Between September 1, 1995 and April 30, 1997, it appears that Topocean LA, in concert with Topocean Taiwan, knowingly and willfully obtained or attempted to obtain ocean transportation for property at less than the applicable rates in violation of section 10(a)(1) of the 1984 Act by means of false cargo measurements. In each instance, the ocean common carrier substituted a larger container for the container presumably requested by Topocean Taiwan. In accordance with the ocean common carrier's "equipment substitution" rule, the ocean freight for the requested container would be charged if the cargo's measurement did not exceed that which could be loaded into the requested container. The shipment record indicates that the substituted container was loaded beyond the cubic capacity of the requested container, but the ocean common carrier's bill of lading shows a cargo measurement which is less than that which could have been loaded into the requested container. As a result, Topocean LA paid the ocean freight for

the requested containers rather than the higher ocean freight for the substituted containers.

The shipment records demonstrate that Topocean LA was cognizant that the shipments had been misdeclared as to the cubic measurement and were loaded at higher measurements only possible through the provision of a larger container. However, Topocean LA apparently paid the ocean freight according to the inaccurate measurement shown on the ocean common carrier's bill of lading. Therefore, it appears that Topocean LA knowingly and willfully obtained or attempted to obtain ocean transportation for property at less than the applicable rates between September 1, 1995 and April 30, 1997 in violation of section 10(a)(1).

On June 12, 1996, Topocean Taiwan became a tariffed and bonded NVOCC. At that time, Topocean Taiwan's shipments could be accepted by ocean common carriers,³ and this cargo could be rated in accordance with ocean common carriers' applicable tariffs or service contracts. Based upon the facts set forth above, it appears that between June 12, 1996 and April 30, 1997, Topocean Taiwan may have obtained or attempted to obtain ocean transportation for property at less than the applicable rates by means of false cargo measurements or misdescriptions of cargo in violation of section 10(a)(1) of the 1984 Act.

Under section 13 of the 1984 Act, 46 USC app. 1712, a person is subject to a civil penalty of not more than \$25,000 for each knowing and willful violation of the 1984 Act. In addition, section 23 of the 1984 Act, 46 U.S.C. app. 1721, provides that a common carrier's tariff may be suspended for violations of sections 10 (a)(1) of the 1984 Act.

Now therefore, it is Ordered, That pursuant to sections 3, 8, 10, 11, 13, 14 and 23 of the 1984 Act, 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1713 and 1721, and 46 CFR Part 514, an investigation is instituted to determine:

(1) Whether Topocean Consolidation Service Ltd. violated section 8 of the 1984 Act by operating as a common carrier without an effective tariff on file at the Commission between September 16, 1995 and June 11, 1996;

(2) Whether Topocean Consolidation Service Ltd. violated section 10(a)(1) of the 1984 Act between June 12, 1996 and April 30, 1997, by directly or indirectly obtaining ocean transportation for

property at less than the rates and charges otherwise applicable by means of misdescriptions of commodities or false cargo measurements;

(3) Whether Topocean Consolidation Service Ltd. violated section 23(a) of the 1984 Act, by providing non-vessel-operating common carrier services without an effective bond filed at the Commission between September 16, 1995 and May 2, 1996;

(4) Whether Topocean Consolidation Service (Los Angeles) Inc. and/or Topocean Consolidation Service (New York) Inc. violated section 10 (a)(1) of the 1984 Act between September 1, 1995 and April 30, 1997, by directly or indirectly obtaining transportation at less than the rates and charges otherwise applicable by means of misdescription of commodities;

(5) Whether Topocean Consolidation Service (Los Angeles) Inc. violated section 10(a)(1) of the 1984 Act between September 1, 1995 and April 30, 1997, by directly or indirectly obtaining or attempting to obtain ocean transportation at less than the rates and charges otherwise applicable by means of false cargo measurements;

(6) Whether, in the event violations of section 8, 10 (a)(1) and 23(a) of the 1984 Act are found, civil penalties should be assessed against Topocean Consolidation Service Ltd., Topocean Consolidation Service (Los Angeles) Inc., and Topocean Consolidation Service (New York) Inc. and, if so, the amount of penalties to be assessed;

(7) Whether, in the event violations of section 10 (a)(1) of the 1984 Act are found, the tariffs of Topocean Consolidation Service Ltd. and Topocean Consolidation Service (Los Angeles) Inc. should be suspended or canceled; and

(8) Whether, in the event violations of the 1984 Act are found, an appropriate cease and desist order should be issued against Topocean Consolidation Service Ltd., Topocean Consolidation Service (Los Angeles) Inc. and Topocean Consolidation Service (New York) Inc.

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

³ Section 10(b)(14) of the 1984 Act, 46 U.S.C. app. 1709(b)(14), prohibits ocean common carriers from knowingly and willfully accepting cargo from or transporting cargo for the account of an untariffed and unbonded NVOCC.

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 Topocean Consolidation Service Ltd., Topocean Consolidation Service (Los Angeles) Inc. and Topocean Consolidation Service (New York) Inc. 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, 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 May 29, 1998 and the final decision of the Commission shall be issued by September 28, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 97-14470 Filed 6-3-97; 8:45 am]

BILLING CODE 6730-01-M

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 June 18, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Willard M. Johnson, as managing general partner of the WMJ/RMJ Family Limited Partnership II*, Houston, Texas; to acquire 17.7 percent of the voting shares of Jamestown Union Bancshares, Inc., Jamestown, Tennessee, and thereby indirectly acquire Union Bank, Jamestown, Tennessee.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *John B. Bedene, Bruce Fowler Bedene, Becky Suzanne Bualle, and Barry William Bedene*, as co-trustees of the Trust Estate established by the Will of John H. Bedene, Deceased, all of Arma, Kansas; to acquire 51 percent of the voting shares of Bedene Insurance Agency, Inc., Arma, Kansas, and thereby indirectly acquire The First State Bank, Arma, Kansas.

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

1. *Alvin L. Fields*, Honey Grove, Texas; to acquire an additional 40.97 percent, for a total of 50 percent; and Ronald L. Wilburn, San Antonio, Texas, to acquire a total of 50 percent, of the voting shares of Quadco Bancshares, Inc., Ladonia, Texas, and thereby indirectly acquire Farmers and Merchants State Bank, Ladonia, Texas.

Board of Governors of the Federal Reserve System, May 29, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97-14475 Filed 6-3-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

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 indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 27, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *MSB Mutual Holding Company, and MSB Financial Corp.*, both of Wall Township, New Jersey; to become bank holding companies by acquiring 100 percent of the voting shares of Manasquan Savings Bank, Wall Township, New Jersey.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *ECSB Holding Company, Inc.*, Fort Walton Beach, Florida; to merge with American National Financial Corporation, Panama City, Florida, and thereby indirectly acquire First National Bank Northwest Florida, Panama City, Florida.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034: