

(S E R V E D)
(April 7, 2011)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

WASHINGTON, D. C.

DOCKET NO. 11 - 06

**INDIGO LOGISTICS, LLC;
LILIYA IVANENKO; AND LEONID IVANENKO --
POSSIBLE VIOLATIONS OF SECTION 19
OF THE SHIPPING ACT OF 1984 AND
THE COMMISSION'S REGULATIONS AT
46 C.F.R. PART 515**

ORDER OF INVESTIGATION AND HEARING

Indigo Logistics, LLC (Indigo) is a limited liability company organized under the laws of Georgia in 2007. It maintains an office/warehouse facility at 5255 Bucknell Dr., Atlanta, GA 30336, and additional facilities at 2601 Seaboard Coastline Dr., Savannah, GA 31415. Liliya Ivanenko is the sole owner and President of Indigo. The operation and supervision of the company's day-to-day activities are conducted by Leonid Ivanenko who also represents himself as the President of the company.

Indigo is not licensed by the Commission. According to records maintained by the Commission's Bureau of Certification and Licensing (BCL), Indigo filed an application for a license as an ocean transportation intermediary (OTI) in July, 2008, but voluntarily withdrew the application in October, 2009, prior to any disposition. BCL

advised Indigo on several occasions of the prohibition in the Shipping Act and the Commission's regulations against acting as an OTI without a license and the possibility of the imposition of penalties. Indigo has not since reapplied for a license.

It appears that Indigo has held itself out to provide and provided services as an ocean freight forwarder since at least 2008 and continues to do so. Based on information provided to the Commission, it appears that Indigo books shipments with licensed NVOCCs for transportation by water from U.S. origins to foreign destinations on behalf of its customers, prepares and processes documents in connection with those shipments, represents itself on shipment documents as the forwarding agent, clears shipments with Customs for export, arranges for inland transportation of shipments to port, and assumes responsibility for payment of ocean freight charges to the NVOCCs.

Section 19(a) of the Shipping Act, 46 U.S.C. §40901(a), provides that any person in the United States acting as an OTI must hold a license issued by the Commission. Section 19(b), 46 U.S.C. §40902(a), prohibits any person from acting as an OTI unless it furnishes to the Commission evidence of financial responsibility in a form and amount prescribed by the Commission. An OTI means an ocean freight forwarder or a non-vessel-operating common carrier. 46 U.S.C. §40102(19). An ocean freight forwarder means a person in the United States who dispatches shipments from the United States via a common carrier and books shipments on behalf of shippers and processes the documentation or performs other activities incident to those shipments. 46 U.S.C. §40102(18). The Commission's regulations implementing these provisions describe ocean freight forwarder services to include dispatching shipments on behalf of others from the United States via common carrier, ordering cargo to port, preparing and/or processing export declarations, booking, arranging for or confirming cargo space, preparing or processing delivery orders or dock receipts, clearing shipments in accordance with U.S. export regulations, handling freight or other monies advanced by shippers, or coordinating the movement of shipments from origin to vessel. 46 C.F.R. §515.2(i) and (o)(1). It appears that Indigo, through the control and actions of Liliya Ivanenko and Leonid Ivanenko, holds out to and does provide the services described in the Commission's regulations for which a license is required. Indigo is not licensed to

act as an OTI, nor has it furnished evidence of financial responsibility to the Commission.

NOW THEREFORE, IT IS ORDERED, That pursuant to Section 11 of the Shipping Act, 46 U.S.C. §41302, an investigation is instituted to determine:

- (1) whether Indigo Logistics, LLC, Liliya Ivanenko, and Leonid Ivanenko violated Section 19 of the Shipping Act, 46 U.S.C. §§40901, 40902, and the Commission's regulations at 46 C.F.R. Part 515, by acting as an ocean freight forwarder without a license or evidence of financial responsibility;
- (2) whether, in the event violations of Section 19 of the Shipping Act of 1984 are found, civil penalties should be assessed against Indigo Logistics, LLC, Liliya Ivanenko, and/or Leonid Ivanenko, and, if so, the amount of penalties to be assessed; and
- (3) whether, in the event violations are found, appropriate cease and desist orders 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 C.F.R. §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 Indigo Logistics, LLC, Liliya Ivanenko, and Leonid Ivanenko are named as Respondents in this proceeding.

IT IS FURTHER ORDERED, That the Commission's Bureau of Enforcement is made 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 each Respondent at its last known address;

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 C.F.R. §502.72;

IT IS FURTHER ORDERED, That all further notices, orders, 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 2 of the Commission's Rules of Practice and Procedure, 46 C.F.R. §502.2 , and shall be served on all parties of record;

FINALLY, IT IS ORDERED, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. §502.61, the initial decision of the Administrative Law Judge shall be issued by April 6, 2012, and the final decision of the Commission shall be issued by August 6, 2012.

By the Commission.

Karen V. Gregory
Secretary