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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91219179
Party	Plaintiff Spliethoff's Bevrachtungskantoor B.V.
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Date	06/07/2016
Attachments	Spliethoff M for Leave to Amend Third NOO - Unlawful Use 4847-4164-2546.pdf(43530 bytes ) Exh. A_ proposed Third Amended Notice of Opposition re Mark United Yacht Transport 4835-6737-2594.pdf(606442 bytes ) Exhibit 1 Composite Third Amended NOO 4846-8815-2352.pdf(5532566 bytes ) Exhibit 2 Third Amended NOO 4852-0274-1024.pdf(400237 bytes ) Exhibit 3 Third Amended NOO 4851-0220-8800.pdf(50826 bytes ) Exhibit 4 Third Amended NOO 4810-9258-5248.pdf(411246 bytes ) EXHIBIT 5 Third Amended NOO 4835-2570-6026.pdf(164075 bytes ) COMPOSITE EXHIBIT 6 Third Amended NOO 4837-4367-8762.pdf(515301 bytes ) EXHIBIT 7 Third Amended NOO 4814-9546-6282.pdf(235662 bytes ) EXHIBIT 8 Third Amended NOO 4820-4813-1370.pdf(432341 bytes ) Exhibit 9 Third Amended NOO.pdf(1192908 bytes ) Exhibit 10 Third Amended NOO.pdf(920161 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Opposition No. 91219179

Serial No. 86031633

SPLIETHOFF'S BEVRACHTINGSKANTOOR B.V.,

Opposer,

v.

UNITED YACHT TRANSPORT LLC.,

Applicant.

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**OPPOSER'S MOTION FOR LEAVE TO FILE  
THIRD AMENDED NOTICE OF OPPOSITION AND  
SUPPORTING MEMORANDUM OF LAW**

Opposer SPLIETHOFF'S BEVRACHTINGSKANTOOR B.V. ("Spliethoff"), by and through its undersigned counsel, pursuant to 37 C.F.R. § 2.107 and Rule 15(a) of the Federal Rules of Civil Procedure, hereby moves the Trademark Trial and Appeal Board (the "Board") for entry of an Order granting Spliethoff leave to file a Third Amended Notice of Opposition to Applicant UNITED YACHT TRANSPORT LLC.'s trademark application. The purpose of the proposed amendment is to add the additional ground of lack of priority based on "unlawful use" to Spliethoff's opposition to Application Serial No. 86031633 for the mark "UNITED YACHT TRANSPORT" (the "Application")(the "Mark") and to include supporting factual allegations that Applicant's yacht transport services using the Mark prior to February 8, 2016 were in violation of the Shipping Act of 1984.

In support of this Motion, Spliethoff respectfully submits the following Memorandum of Law and the separately-filed Declaration of Sandra I. Tart ("Tart Decl."). Concurrently herewith, Opposer also has filed and served a Motion to Suspend and Memorandum of Law in support thereof.

A copy of the proposed Third Amended Notice of Opposition is attached hereto as Exhibit "A."

## **MEMORANDUM OF LAW**

### **I. INTRODUCTION**

Spliethoff seeks leave to file a Third Amended Notice of Opposition, based on evidence obtained by Spliethoff in April and May 2016 from the Federal Maritime Commission to add the opposition ground that Applicant's use of the Mark prior to the February 8, 2016 effective date of Applicant's "ocean transport intermediary" license was in violation of the Shipping Act of 1984 and that Applicant's unlawful use of the Mark does not give rise to trademark registration rights or trademark priority of Applicant.

Applicant filed the Application on August 7, 2013. However, Applicant was not licensed as an "ocean transport intermediary" until February 8, 2016 as required by the Shipping Act of 1984 (the "Shipping Act" or "Act"). Accordingly, Applicant's yacht transport services using the Mark from the first date that it rendered yacht transport services in October 2013 through the date of its belated licensure in February 2016 by the Federal Maritime Commission ("Commission") were unlawful and in violation of the Shipping Act and the Commission's implementing regulations.

It is well settled that only lawful use of a mark in commerce may give rise to trademark rights or trademark priority. Under the Shipping Act, a person or entity acting as an "ocean transport intermediary" in the United States as that term is defined in the statute, must obtain a

license from the Commission, provide the Commission with proof of financial responsibility and publish a tariff.

Discovery responses provided by Applicant show that in October 2013, Applicant began providing the services of transport of yachts by boat in U.S. foreign commerce. However, Applicant did not hold the required "ocean transport intermediary" license until February 8, 2016 and Applicant applied for such license only after the Commission's Bureau of Enforcement conducted an investigation in 2015 into Applicant's unlawful activities.

Spliethoff should be permitted to amend its Notice of Opposition to add the opposition ground of "unlawful use" because (a) the amendment would not be futile, (b) Spliethoff acted with diligence to investigate this opposition ground as soon as Applicant published its ocean transport intermediary license online in 2016 and (c) Opposer filed the instant Motion to amend promptly after obtaining evidence from the Commission to support the proposed opposition ground of "unlawful use." As set forth in the supporting Declaration of Tart,<sup>1</sup> the issue of Applicant's failure to comply with the Shipping Act of 1984 first came to counsel's attention in late March 2016 after Applicant published its "NVOCC" (non-vessel-operating common carrier) license number on its website. (Tart Declar., ¶ 5 and Exhibit "A"). Spliethoff promptly investigated same by means of its counsel's Freedom Of Information Act ("FOIA") request to the Commission. (Tart Declar., ¶¶ 6 and 7). Documents furnished by the Commission in response to the FOIA request establish that the effective date of Applicant's ocean transport intermediary license was February 8, 2016. (Tart Declar., ¶ 8 and Composite Ex. "B"). Spliethoff also investigated this issue by serving written discovery on Applicant on March 25, 2016, April 7, 2016 and April 22, 2016 which focused on

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<sup>1</sup> Unless otherwise noted, all subsequent references to "Exhibits" herein are to the lettered attachments accompanying the Tart Declaration.

Applicant's licensure as an ocean transport intermediary. (Tart Declar., ¶¶10 - 11). Applicant served responses which raised the objection of "relevancy" to all Spliethoff's written discovery which sought discovery related to the issue of Applicant's unlicensed activities in violation of the Shipping Act. (Tart Declar., ¶¶ 12 - 13). However, Spliethoff obtained responsive documents from the Commission in response to its FOIA request which support and establish the opposition ground of "unlawful use." (Tart Declar., ¶¶ 8 and 9, Composite Ex. "B" and "C").

Under the current Scheduling Order, the Discovery Period closes on June 29, 2016. Spliethoff has contemporaneously filed a Motion to Suspend proceedings and requested therein that the Board allow the requested amendment and re-set the current pretrial deadlines. Applicant will not be prejudiced by the granting of the requested amendment because all of the facts relating to the opposition argument of lack of priority based upon "unlawful use" are within the knowledge of Applicant.

## **II. ARGUMENT**

### **A. "Use in Commerce" Under the Lanham Act Requires Lawful Use To Establish Trademark Rights and Priority**

The "use in commerce" requirement of the Lanham Act requires lawful use to establish trademark rights and priority. *See* 15 U.S.C. § 1127. "It has long been the policy of the PTO's Trademark Trial and Appeal Board that use in commerce only creates trademark rights when the use is lawful." *CreAgri, Inc. v. USANA Health Sciences, Inc.*, 81 USPQ2d 1592, 1594 (9th Cir. 2007); *See e.g., Nationstar Mortgage LLC v. Ahmad*, 112 USPQ2d 1361, 1373-1374 (TTAB 2014); *The John W. Carson Foundation v. Toilets.com, Inc.*, 94 USPQ2d 1942 (TTAB March 25, 2010)(summary judgment entered in favor of opposer where it was a legal impossibility for applicant to make lawful use of the mark "Here's Johnny" in view of prior entry by Sixth Circuit of permanent

injunction against such use by applicant); *In re Midwest Tennis & Track Co.*, 29 U.S.P.Q.2d 1386, 1386 n.2 (TTAB. 1993); *Clorox Co. v. Armour-Dial, Inc.*, 214 U.S.P.Q. 850, 851 (TTAB 1982)("use in commerce' means a 'lawful use in commerce"); *In re Pepcom Indus., Inc.*, 192 U.S.P.Q. 400, 401 (TTAB 1976); *In re Stellar International, Inc.*, 159 U.S.P.Q. 48, 51 (TTAB 1968); *see also United Phosphorus Ltd. v. Midland Fumigant Inc.*, 53 USPQ2d 1929, 1932 (10th Cir. 2000); Trademark Manual of Examining Procedure (TMEP) § 907 (Apr. 2014 Rev.).

**B. The Shipping Act of 1984 Required Applicant To Be Licensed As An Ocean Transport Intermediary To Lawfully Provide Its Yacht Transport Services**

The Shipping Act of 1984, at 46 U.S.C. §§ 40101, *et seq.*, prohibits any person in the United States from providing services as an "ocean transport intermediary" without a license issued by the Federal Maritime Commission, a bond to ensure financial responsibility and publication of its tariff.

Under the Act, an "ocean transport intermediary" means either an "ocean freight forwarder" or a "non-vessel-operating common carrier." 46 U.S. Code § 40102(19). The Act defines the term "non-vessel-operating common carrier" or NVOCC as: a common carrier that (A) does not operate the vessels by which the ocean transportation is provided; and (B) is a shipper in its relationship with an ocean common carrier. 46 U.S. Code § 40102(16). The term "ocean common carrier" is defined by the statute as a "vessel-operating common carrier." 46 U.S. Code § 40102(17).

The Act, at 46 U.S.C. § 40901 entitled "License requirement," provides in pertinent part:

**(a) In General.—**

A person in the United States may not act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary's license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

The Act, at 46 U.S.C. § 40902, entitled "Financial Responsibility," provides in pertinent part:

(a) **In General.** — A person may not act as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety—

(1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and

(2) issued by a surety company found acceptable by the Secretary of the Treasury.

To implement the Shipping Act, the Federal Maritime Commission has issued regulations, at 46 C.F.R., Part A § 515.3, governing the licensure for ocean transport intermediaries, as follows:

**License; when required.**

Except as otherwise provided in this part, no person in the United States may act as an ocean transportation intermediary unless that person holds a valid license issued by the Commission. A separate license is required for each branch office that is separately incorporated. For purposes of this part, a person is considered to be “in the United States” if such person is resident in, or incorporated or established under, the laws of the United States. Only persons licensed under this part may furnish or contract to furnish ocean transportation intermediary services in the United States on behalf of an unlicensed ocean transportation intermediary.

The Act, at 46 U.S. Code § 41302(a) entitled "Investigations," authorizes the Federal Maritime Commission to "investigate any conduct or agreement that the Commission believes may violate" the Shipping Act.

**C. Leave to Amend Should Be Freely Granted**

Amendment of pleadings in an opposition proceeding before the Board are governed by 37 C.F.R. § 2.107(a) which states: "[p]leadings in an opposition proceeding may be amended in the same manner and to the same extent as in a civil action in a United States district court. Fed. R. Civ. P. 15(a) states that "leave to amend 'should be freely given when justice so requires;' this mandate is

to be heeded." *Foman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 230 (1992)(citation omitted); *see generally Boral Ltd. v. FMC Corp.*, 59 U.S.P.Q.2d 1701 (TTAB 2000). In exercising its discretion to allow amendments, the Board should be guided by the underlying goal of allowing amendments in order to facilitate a complete decision on the merits. *Filmtec Corp. v. Hydranautics*, 67 F.3d 931, 935 (Fed. Cir. 1995), *cert. denied*, 117 S. Ct. 62 (1996).

Consistent with the foregoing policy, decisions of the Board establish that the Board liberally grants leave to amend pleadings at any stage of the proceedings when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party. TBMP § 507.02; *see Boral Ltd.*, 59 U.S.P.Q.2d at 1701; *Am. Optical Corp. v. Am. Olean Tile Co.*, 168 U.S.P.Q. 471, 473 (TTAB 1971). This is the case even when an opposer seeks to amend its Notice of Opposition to plead a claim other than that stated in its original complaint. *See, e.g., Marmack Ltd. v. Nutrexpa S.A.*, 12 U.S.P.Q.2d 1843, 1844 (TTAB 1989); *Fioravanti v. Fioravanti Corrado S.R.L.*, 230 U.S.P.Q. 36, 40 (TTAB 1986).

Under TBMP § 507.02(a), the timing of a motion for leave to amend plays a large role in the Board's determination whether the adverse party would be prejudiced by allowance of the proposed amendment. Where the grounds for amendment are learned in discovery, amendment of the Notice of Opposition should be allowed. *See e.g. Karsten Manufacturing Corp. v. Editoy AG*, 79 U.S.P.Q.2d 1783, 1786 (TTAB 2006)(motion for leave to amend pleading granted because grounds for new claim was learned during discovery).

**D. The Proposed Third Amended Notice of Opposition Should Be Allowed**

Opposer's instant motion for leave to amend asserts a well-settled ground for opposition, is timely and falls well within the parameters of 37 C.F.R. § 2.107(a) and Rule 15(a). Therefore, the Board should allow Spliethoff's proposed amendment. The opposition ground of "unlawful use" was

only revealed when Applicant published its ocean transport intermediary license number on its website after Applicant was licensed on February 8, 2016. Upon learning of Applicant's NVOCC license in late March 2016, Spliethoff diligently investigated whether Applicant had provided yacht transport services as an unlicensed "ocean transport intermediary" in violation of the Shipping Act by serving a FOIA request on the Federal Maritime Commission and written discovery on Applicant regarding this issue.

Applicant's provision of unlicensed ocean transport intermediary services was in violation of the Shipping Act from October 2013 until February 8, 2016. Applicant's unlawful use of the Mark is not "use in commerce" under the Lanham Act that may give rise to trademark rights or trademark priority. Applicant's failure to comply with the Shipping Act is fatal to its claimed priority of use of the Mark and registration rights under its pending Application. Spliethoff should be permitted to amend its Notice of Opposition to assert lack of priority based on "unlawful use" as a ground of opposition.

#### **IV. CONCLUSION**

For the reasons and authorities set forth herein, Opposer Spliethoff Bevrachtingskantoor B.V, prays that the Board grant the instant Motion and permit Spliethoff leave to file the attached proposed Third Amended Notice of Opposition.

Dated: June 7, 2016

Respectfully submitted,

/s/ J. Michael Pennekamp

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*Counsel for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Opposer's Motion for Leave to File Amended Notice of Opposition has been e-filed via ESTTA and served upon Bryan D. Hull, Esquire, counsel for Applicant United Yacht Transport, LLC, by email to [bhull@bushross.com](mailto:bhull@bushross.com), this 7th day of June, 2016.

/s/ Sandra I. Tart

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Sandra I. Tart

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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SPLIETHOFF'S BEVRACHTINGSKANTOOR B.V.,	)	
	)	
Opposer,	)	
	)	
v.	)	
	)	Opposition No. 91219179
	)	
	)	
UNITED YACHT TRANSPORT LLC.,	)	U.S. Appl. Serial No. 86031633
	)	
Applicant.	)	

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**[PROPOSED] THIRD AMENDED NOTICE OF OPPOSITION**

In the matter of U.S. Trademark Application Serial No. 86031633 covering the mark "UNITED YACHT TRANSPORT" filed on August 7, 2013, under Section 1(a) by United Yacht Transport LLC, a limited liability company organized under the laws of the State of Delaware ("Applicant"), having its principal place of business at 2830 State Road 84, Suite 118, Dania Beach, Florida 33312, published in the *Trademark Official Gazette* on July 8, 2014, time being extended, Opposer, Spliethoff's Bevrachtingskantoor B.V., a private limited liability company, incorporated under the laws of The Netherlands, having its principal place of business at Radarweg 36, 1042 AA Amsterdam, The Netherlands, believes that it would be damaged by the registration of Application Serial No. 86031633, and hereby files its Second Amended Notice of Opposition and opposes the registration of the mark "UNITED YACHT TRANSPORT."

Pursuant to Sections 1(a) and 2(d), the grounds for opposition are as follows:

1. Opposer and Applicant are both engaged in offering and selling in commerce services for the transport of yachts by boat.
2. Upon information and belief, the principal office of Applicant is in Dania Beach, Broward County, Florida.
3. The principal office of Opposer's subsidiary which is engaged in the yacht transport business is located in Broward County, Florida at the following address: 1535 S.E. 17<sup>th</sup> Street, Suite 200, Fort Lauderdale, Florida 33316.
4. On August 7, 2013, Applicant filed an application under Section 1(a) for registration of the mark "UNITED YACHT TRANSPORT" for "Transport of Yachts by Boat" in International Class 039, and U.S. Classes 100 and 105, U.S. Application Serial No. 86031633.
5. Prior to July 16, 2013, Applicant's alleged date of first use, Opposer's predecessor Dockwise Yacht Transport LLC used the "UNITED YACHT TRANSPORT" mark and name in commerce to offer, sell and provide yacht transport services.
6. Opposer acquired all rights, including all common law rights, in the mark "UNITED YACHT TRANSPORT" through an asset purchase agreement entered into on October 15, 2013 among Opposer, Dockwise Yacht Transport LLC and other sellers (the "Agreement").
7. Pursuant to the Agreement, Opposer acquired all of the assets of Dockwise Yacht Transport LLC and of other sellers, and obtained the rights to continue engaging in the yacht transport business activities conducted by or on behalf of Dockwise Yacht Transport LLC and the other sellers as of the closing date of the Agreement.

8. Pursuant to the Agreement, Opposer acquired two dedicated semi-submersible yacht carriers, including the largest of its kind, the M/V *Yacht Express*, a unique and distinctive yacht carrier vessel launched by Opposer's predecessors in 2007. The assigned International Maritime Organization number of the M/V *Yacht Express* is IMO 9346029.

9. Opposer also acquired all rights, including all common law rights, in the mark "UNITED YACHT TRANSPORT" by means of an assignment from Dockwise Yacht Transport LLC to Opposer, effective October 15, 2013.

10. In addition, Opposer owns the pending application under Section 1(a) to register the mark "UNITED YACHT TRANSPORT" for "Transportation by boat; cross-ocean transportation of yachts by semi-submersible ocean going vessels," International Class 039 and U.S. Classes 100 and 105, U.S. Application Serial No. 86041056, which was filed by Dockwise Shipping B.V. on August 18, 2013. Dockwise Shipping B.V. assigned this application and all of its rights in the mark to Opposer, effective on July 1, 2014.

#### **Chronology of Prior Use by Opposer's Predecessors**

11. Opposer's predecessors used the mark "UNITED YACHT TRANSPORT" in commerce for the transport of yachts by boat for two decades before Applicant's alleged date of first use of July 16, 2013, and such predecessors continually used the mark in commerce, until the mark and the yacht transport business of Dockwise Yacht Transport LLC were sold and assigned to Opposer in October 2013.

12. Opposer's predecessors include the following entities: United Yacht Transport (USA) Inc.; Dockwise Yacht Transport (USA) Inc.; and Dockwise Yacht Transport LLC.

13. From 1992 until 2000, United Yacht Transport (USA) Inc., a Delaware corporation incorporated on December 31, 1992, used the mark in commerce for the transport of yachts by boat.

14. On December 7, 1998, Dockwise N.V., a related entity of Opposer's predecessors, filed an application under Section 1(a) to register the service mark "UNITED YACHT TRANSPORT" for "Transport by boat; cross-ocean transportation of yachts by semi-submersible ocean going vessels," Application Serial No. 75600286. The mark was registered on November 21, 2000, U.S. Registration No. 2405244. The registration was cancelled on August 25, 2007.

15. Public filings made with the State of Delaware's Division of Corporations establish that in June 2000 United Yacht Transport (USA) Inc. changed its corporate name to Dockwise Yacht Transport (USA) Inc. and in September 2006 Dockwise Yacht Transport (USA) Inc. began doing business as Dockwise Yacht Transport LLC.

16. United Yacht Transport (USA) Inc. was authorized since December 31, 1992 to do business in Florida. Public filings with the State of Florida's Division of Corporations reflect the corporate history of United Yacht Transport (USA) Inc. and the registrations of the Dockwise entities to do business in Florida

17. After the corporate changes by which United Yacht Transport (USA) Inc. evolved into Dockwise Yacht Transport (USA) Inc. and to Dockwise Yacht Transport LLC (collectively "Dockwise Yacht Transport"), Dockwise Yacht Transport continued to advertise and use the mark "UNITED YACHT TRANSPORT" in commerce in connection with providing the service of transport of yachts by boat.

18. Since 2000, Dockwise Yacht Transport (USA) Inc., and Dockwise Yacht Transport LLC have advertised their yacht transport services as either "United Yacht Transport, Inc." or

"Dockwise/United Yacht Transport, Inc.," with the same Fort Lauderdale address alleged in paragraph 3 hereof, in the annual Port Everglades Guide & Directory, an official Broward County publication, available in print and online. A copy of the relevant pages of the print version of this publication for the following years are attached hereto as Composite Exhibit "1": 1998, 1999, 2001, 2003, 2005, 2006, 2007-2008, 2008-2009, 2010, 2011-2012, 2012 – 2013 and 2014.

19. Prior to Applicant's July 16, 2013 alleged date of first use, and specifically in 2012 and 2013, Dockwise Yacht Transport, LLC displayed the mark "UNITED YACHT TRANSPORT" on its distinctive "float-on, float-off" semi-submersible yacht carrier, the M/V *Yacht Express*, while the vessel was transporting yachts between Port Everglades, in Fort Lauderdale, Florida and foreign ports. Four photographs of the M/V *Yacht Express* displaying the mark which are posted online at [www.marinetraffic.com](http://www.marinetraffic.com), all of which indicate "dates taken" in 2012 and in 2013 prior to Applicant's alleged date of first use, are attached hereto as Exhibit "2." A photograph of the M/V *Yacht Express* displaying the mark which is posted online at [www.yachtforums.com](http://www.yachtforums.com) and indicates that it was taken in 2012 by the Fort Lauderdale "webcam" at Port Everglades is attached hereto as Exhibit "3." Two photographs of the *Yacht Express* displaying the mark which are posted online at [www.shipspotting.com](http://www.shipspotting.com), both of which indicate dates taken of March 9, 2012, at "St. Thomas Charlotte Amalie, Virgin Islands (U.S.)" are attached hereto as Composite Exhibit "4."

20. Prior to Applicant's alleged date of first use, and specifically in 2012 and 2013, Dockwise Yacht Transport, LLC displayed the mark "UNITED YACHT TRANSPORT" on its distinctive "float-on, float-off" semi-submersible yacht carrier, the M/V *Super Servant 4*, while the vessel was transporting yachts in commerce. Two photographs of the M/V *Super Servant 4* displaying the mark while engaged in the service of transport of yachts by boat in commerce, which

were taken in Newport, Rhode Island by commercial photographer, Onne Van der Wal, on November 14, 2012, are attached hereto as Composite Exhibit "5."

21. Since October 2013, Opposer has continued operating the yacht transport business of its predecessor entities under the names "DYT" and "DYT Yacht Transport" and has continued using the dedicated yacht transport carriers acquired in the Agreement, including the *M/V Yacht Express*, to transport yachts by boat in commerce.

22. The names "DYT" and "DYT Transportation" are registered as fictitious names of Opposer's subsidiary Sevenstar Transport USA Agencies LLC.

23. Since October 2013, Opposer has used and currently is using the "UNITED YACHT TRANSPORT" mark in commerce to advertise and sell the services of transport of yachts by boat and has plans to expand its use of the mark and name in commerce.

**Applicant's Filings with the USPTO  
Made With Intent to Defraud the USPTO**

24. Applicant adopted the mark "UNITED YACHT TRANSPORT" in bad faith with knowledge of the prior and continuous use of said mark by Opposer's predecessors, with the intent to gain a benefit and trade off of the reputation and goodwill associated with the mark "UNITED YACHT TRANSPORT" which had been established by decades of prior use and advertising by Opposer's predecessors.

25. On information and belief, prior to filing its application to register the mark on August 7, 2013, Applicant had knowledge that Dockwise Yacht Transport had prior use of the mark in commerce and was continuing to use the mark in commerce and that Dockwise Yacht Transport had legal rights in the mark superior to any claimed rights of Applicant in the mark.

26. On information and belief, prior to filing its application to register the mark on August 7, 2013, Applicant had knowledge that a likelihood of confusion would result from Applicant's use of the identical mark UNITED YACHT TRANSPORT, or had no reasonable basis for believing otherwise.

27. On information and belief, Applicant obtained this knowledge from its involvement or participation, either directly or through an intermediary, with efforts of a third party to acquire the yacht transport business and the mark UNITED YACHT TRANSPORT from Opposer's predecessor, Dockwise Yacht Transport.

28. In interrogatory answers in this proceeding, Applicant has disclosed that, during the period of June 2011 to March 2013, Applicant's President Paul Haber, assisted with financing negotiations relating to Dockwise Yacht Transport's planned sale of its yacht transportation business and the mark UNITED YACHT TRANSPORT to a third party.

29. In interrogatory answers in this proceeding, Applicant has disclosed that during the time period of January 2012 through March 2012, Applicant's President Paul Haber, learned that the mark UNITED YACHT TRANSPORT was displayed on the side of Dockwise's yacht transport vessel, the M/V Yacht Express.

30. In addition, in August and September 2013, Applicant received a cease and desist letter from Dockwise counsel and Applicant's counsel received email communications from Dockwise counsel which provided unequivocal evidence of Dockwise's then-ongoing use of the mark in commerce as follows: display on the mark UNITED YACHT TRANSPORT on Dockwise's mammoth (700+ foot) yacht transport vessels and listing of "Dockwise/United Yacht Transport" as one of the Shipping Lines in the Port Everglades Guide & Directory. (A copy of the August 20,

2013 cease and desist letter and September 13, 2013 email from Dockwise counsel are attached hereto as Composite Exhibit "6").

31. Even after being apprised of Dockwise's prior use and superior rights in the mark and receiving further evidence of same from Dockwise counsel, Applicant continued prosecuting its Application to register the mark, through the filing of a Response to Office Action on May 19, 2014 and an April 22, 2015 Motion seeking leave to amend the filing basis for its Application from Section 1(a) to Section 1(b).

32. On information and belief, Applicant continued prosecuting its Application to register the mark with knowledge that Dockwise Yacht Transport had prior use of the mark in commerce and was continuing to use the mark in commerce and that Dockwise Yacht Transport had legal rights in the mark superior to any claimed rights of Applicant in the mark.

33. On information and belief, Applicant continued prosecuting its Application to register the mark with knowledge that a likelihood of confusion would result from Applicant's use of the identical mark UNITED YACHT TRANSPORT, or had no reasonable basis for believing otherwise.

34. Applicant, with the intent to deceive the USPTO, knowingly made material false representations to the USPTO and purposefully failed to disclose facts regarding Dockwise's prior use and superior rights in the mark to the USPTO. Specifically, with the intent to deceive the USPTO, Applicant knowingly and purposefully failed to disclose facts known to it regarding Dockwise's prior use and rights in the mark as alleged, and made material false representations and oaths in its use-based Application filed on August 7, 2013 and in its May 19, 2014 Response to Office Action.

35. Specifically, in Application Serial No. 86031633 filed on August 7, 2013, Applicant signed the Declaration included in the Application ("First Declaration"). In its First Declaration, Applicant declared under oath and represented to the USPTO that Applicant believed itself to be the owner of the mark sought to be registered, that to the best of its knowledge and belief no other person, firm, corporation or association had the right to use the mark in commerce in connection with the services identified in the Application and that all statements in the Application were true and correct.

36. Applicant's First Declaration was false and knowingly made by Applicant with the intent to deceive the USPTO and to procure a registration for the mark to Application to which Applicant was not entitled because, as alleged herein, Applicant had knowledge at the time of filing its Application of Dockwise's Yacht Transport's prior use of the mark in commerce and superior rights in the mark and that a likelihood of confusion would result from Applicant's use of the identical mark UNITED YACHT TRANSPORT, or Applicant had no reasonable basis for believing otherwise.

37. On May 19, 2014, Applicant filed a Response to Office Action and filed specimens of photographs of a website showing the mark UNITED YACHT TRANSPORT which Applicant falsely represented to be its website that was in use in commerce as of the August 7, 2013 filing date of its Application.

38. In its Response to Office Action, with the intent to deceive the USPTO, Applicant knowingly failed to disclose facts relating to Dockwise's prior use and superior rights in the mark and knowingly made material made false representations to the USPTO in the Declaration under oath contained in its Response ("Second Declaration").

39. Applicant's Second Declaration was false and knowingly made by Applicant with the intent to deceive the USPTO and to procure a registration for the mark to Applicant to which Applicant was not entitled because, as alleged herein, Applicant had knowledge at the time of filing its May 19, 2014 Response to Office Action of Dockwise's Yacht Transport's use of the mark in commerce prior to the filing date of Applicant's Applicant and superior rights in the mark and that a likelihood of confusion would result from Applicant's use of the identical mark UNITED YACHT TRANSPORT, or Applicant had no reasonable basis for believing otherwise.

40. By knowingly failing to disclose Dockwise's prior use of the mark, including but not limited to Applicant's knowledge gained in early 2012 by its President Paul Haber that Dockwise was using the mark on the M/V Yacht Express and the facts and evidence communicated to Applicant and its counsel by Dockwise counsel in September and October 2013 as alleged herein, that Dockwise had superior rights in the mark and that a likelihood of confusion would result from Applicant's use of the mark or that Applicant had no reasonable basis for believing otherwise, Applicant knowingly made material false representations to the USPTO and intended to defraud the USPTO in order to procure a registration in the mark to which Applicant was not entitled.

41. Based on Applicant's actual knowledge of Dockwise's priority and continuous use of the mark in commerce and Dockwise's superior legal rights in the mark arising therefrom, Applicant filed and has prosecuted its Application with the intent to defraud the USPTO.

42. In addition to adopting the mark "UNITED YACHT TRANSPORT," Applicant deliberately has sought to create marketplace confusion and the false impression that there is a relationship between Applicant and Opposer and/or Opposer's predecessors, by using the mark "UNITED YACHT TRANSPORT" with a logo and online advertising which feature the identical

and distinctive color combination of orange and royal blue, used by Opposer's predecessors to establish the mark, origin of services of yacht transport and associated goodwill in commerce, and currently used by Opposer.

43. Applicant's mark "UNITED YACHT TRANSPORT" is identical to the mark "UNITED YACHT TRANSPORT" used by Opposer's predecessors for many years prior to July 16, 2013, Applicant's alleged date of first use.

44. On information and belief, the services of Applicant, namely the transport of yachts by boat, are the same or substantially the same as the services of transportation of yachts by boat which were offered and provided by Opposer's predecessors and currently are offered and provided by Opposer.

45. The services of yacht transport by boat which are offered and sold by Opposer under the "UNITED YACHT TRANSPORT" mark and name are likely to be purchased and used by the same class of purchasers, i.e. yacht owners, who are likely to purchase Applicant's services.

46. Opposer and Applicant compete "head to head" providing the identical services to the same target market. The yacht transport services of Opposer and Applicant are and will be marketed through the same and related channels of trade to reach the same target market of yacht owners needing the services of yacht transportation by boat.

47. This target market is comprised of yacht owners who desire to transport their yachts by boat between U.S. ports, including Port Everglades, Florida, and foreign ports, including ports in the Caribbean, the Mediterranean, and the South Pacific. Attached hereto as Exhibits "7" and "8" are the yacht transport destinations serviced by Opposer and Applicant, respectively.

48. The public, and particularly yacht owners purchasing yacht transport services, have long associated the mark "UNITED YACHT TRANSPORT" with Opposer's predecessors, Dockwise Yacht Transport, LLC, Dockwise Yacht Transport (USA), Inc., and United Yacht Transport (USA), Inc.

49. As a result, if the identical mark "UNITED YACHT TRANSPORT" is applied to the services of Applicant, it will cause confusion or deceive purchasers into having the mistaken belief that the services of Applicant originate from, or are disseminated with Opposer's approval, sponsorship or control, all to the great damage of Opposer.

50. Opposer has standing to oppose registration of the mark because it would be damaged by the registration of the mark "UNITED YACHT TRANSPORT" in the principal register.

51. Based on Applicant's interrogatory answers in this proceeding, Applicant's first use of the mark "UNITED YACHT TRANSPORT" in commerce was in the fall of 2013, which is months after the date of Applicant's filing of its use-based application, over two decades after the date of first use by Opposer's predecessor, United Yacht Transport (USA), Inc., of the "UNITED YACHT TRANSPORT" mark and name and over one year after Dockwise Yacht Transport's use of the mark on its vessels the M/V YACHT EXPRESS and the M/V SUPER SERVANT 4.

52. In view of the identity between Applicant's mark "UNITED YACHT TRANSPORT" and Opposer's mark "UNITED YACHT TRANSPORT" in terms of commercial impression and meaning, and in view of the substantially identical nature of the yacht transport services offered and sold in commerce by both Applicant and Opposer, Opposer alleges that Applicant's mark consists of and comprises matters which may disparage and falsely suggest a trade connection between Opposer and Applicant.

53. Opposer is not nor will it be connected or associated with the services of yacht transport by boat which Applicant is providing under the mark "UNITED YACHT TRANSPORT."

54. If the Applicant is able to register the mark "UNITED YACHT TRANSPORT" for the services set forth in its application, confusion of the trade and public is likely to result, and such confusion will result in damage and injury to Opposer.

55. If Applicant is granted a registration for the mark "UNITED YACHT TRANSPORT," it will obtain at least a *prima facie* exclusive right to use the mark.

56. Such registration would be a source of damage and injury to Opposer.

57. In addition, pursuant to Section 1(a), on information and belief, including disclosures made by Applicant in discovery responses in this proceeding, Opposer contests the date of first use and date of first use in commerce alleged in Applicant's application.

58. There was no *bona fide* use by Applicant of the mark "UNITED YACHT TRANSPORT" in commerce prior to Applicant's filing of a use-based application for registration under Section 1(a) of the Act.

59. Applicant's application is void *ab initio* and invalid because Applicant, with the intent to deceive the USPTO, knowingly made false representations to the USPTO. Specifically, with the intent to deceive the USPTO, Applicant knowingly made false representations in its use-based Application filed on August 7, 2013 and in its May 19, 2014 Response to Office Action.

60. In Application Serial No. 86031633 filed on August 7, 2013, Applicant represented to the USPTO that Applicant first used the mark UNITED YACHT TRANSPORT in commerce on August 5, 2013 which was false. Applicant, by its own admission, did not use the mark in commerce until months after the filing date of its Application.

61. On May 19, 2014, Applicant filed a Response to Office Action and filed specimens of photographs of a website showing the mark UNITED YACHT TRANSPORT which Applicant falsely represented to be its website that was in use in commerce as of the August 7, 2013 filing date of its Application. Applicant has disclosed in this proceeding that the website depicted by the photographic specimens that Applicant submitted filed in its Response to Office Action were not posted online until late March 2014.

62. In connection with its August 7, 2013 Application and its March 19, 2014 Response to Office Action, Applicant acted with intent to defraud the USPTO or had a reckless disregard for the truth with respect its submissions to the USPTO.

**Applicant's Use of the Mark to Provide the Services of the Transport of Yachts by Boat Prior to February 8, 2016 Constituted Applicant's Unlicensed Services as an Ocean Transport Intermediary in Violation of the Shipping Act of 1984**

63. The Shipping Act of 1984, 46 U.S.C. §§ 40101, *et seq.*, prohibits any person in the United States from providing services as an "ocean transport intermediary" without a license issued by the Federal Maritime Commission, a bond to ensure financial responsibility and publication of its tariff.

64. In or about October 2013, Applicant began providing the services of the transport of yachts by boat using the mark UNITED YACHT TRANSPORT in U.S. foreign commerce.

65. Starting in October 2013, Applicant has provided the services of the transport of yachts by boat using the mark without holding a license as an "ocean transport intermediary" issued by the Federal Maritime Commission as required by The Shipping Act of 1984.

66. Applicant did not submit an Ocean Transport Intermediary application to the Federal Maritime Commission until December 2015 and, upon information and belief, Applicant filed its

application for licensure only after the Federal Maritime Commission's Bureau of Enforcement investigated Applicant for operating as an unlicensed "ocean transport intermediary" in violation of the Shipping Act of 1984.

67. Applicant was not licensed by the Federal Maritime Commission as an "ocean transport intermediary" until February 8, 2016. A copy of Applicant's Ocean Transport Intermediary License, Ocean Freight Forwarder and Non-Vessel-Operating Common Carrier, License No. 025897NF, effective February 8, 2016 is attached hereto as Exhibit "9".

68. In 2013, 2014, 2015 and 2016 until the February 8, 2016 effective date of Applicant's Ocean Transport Intermediary License No. 025897NF, Applicant provided yacht transport services using the mark as an "ocean transport intermediary" in violation of the Shipping Act of 1984.

69. Applicant's use of the mark in commerce to provide the services of the transport of yachts by boat on which its U.S. Application Serial No. 86031633 is based was, until February 8, 2016, unlawful use in violation of the Shipping Act of 1984.

70. A copy of the "Warning Letter" dated March 29, 2016 from the Federal Maritime Commission's Bureau of Enforcement to Applicant, which references the Bureau's investigation into the operations of Applicant with respect to shipments of yachts in the U.S. foreign commerce during 2014 and 2015 and Applicant's apparent violations of the Shipping Act of 1984, is attached hereto as Exhibit "10." The Warning Letter states, *inter alia*, that based on information provided to the Bureau of Enforcement it appears that "United Yacht Transport LLC [Applicant] acted as an ocean transport intermediary in the United States without a license, bond, or tariff in apparent violation of sections 8 and 19 of the Shipping Act, 46 U.S.C. §§ 40501, 40901, and 40902."

71. Applicant's unlawful use of the mark in violation of the Shipping Act of 1984 and the implementing regulations of the Federal Maritime Commission does not qualify as "use in commerce" of the mark under the Lanham Act so as to establish any trademark rights or trademark priority of Applicant.

Opposer hereby appoints J. Michael Pennekamp, Esquire and Sandra I. Tart, Esquire, both members of the Florida Bar and the firm of Fowler White Burnett, P.A., Brickell Arch, 1395 Brickell Avenue, 14<sup>th</sup> Floor, Miami, Florida 33131, to act as its attorneys in the matter of the opposition identified above, to prosecute said opposition, to transact all business in the Patent and Trademark Office, and in the United States courts connected with the opposition, to sign its name to all papers which are hereinafter to be filed in connection therewith, and to receive all communications relating to the same.

WHEREFORE, Opposer, by and through its counsel, prays that the Trademark Trial and Appeal Board decide that U.S. Application Serial No. 86031633 is invalid and void *ab initio*, refuse registration of the mark sought to be registered by Applicant in U.S. Application Serial No. 86031633, sustain this Opposition, lift the stay and permit Opposer to register the mark in U.S. Application Serial No. 86041056 in the United States Patent and Trademark Office, and grant such other and further relief as is just and proper.

Date: \_\_\_\_\_, 2016

Respectfully submitted,

---

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*Counsel for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Opposer's Third Amended Notice of Opposition has been e-filed via ESTTA and served upon Bryan D. Hull, Esquire, counsel for Applicant United Yacht Transport, LLC, by email to [bhull@bushross.com](mailto:bhull@bushross.com), this \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Sandra I. Tart

# Port Everglades Guide

70<sup>TH</sup> ANNIVERSARY EDITION 1998



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EXHIBIT  
*1*  
COMPOSITE

# Port Everglades Guide

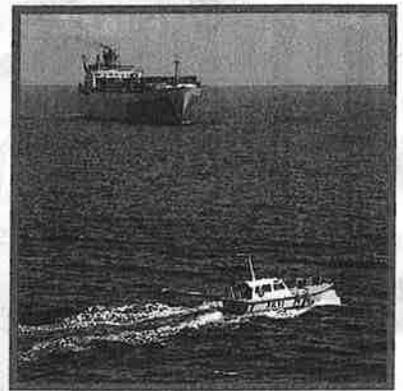
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# Port Everglades Guide



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*Interim County Attorney*

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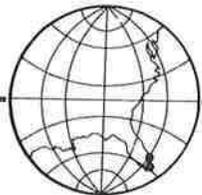
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Caribbean Sea Carriers, Inc.  
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Email: csc@fbsims.com

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1760 Port Blvd., Miami FL 33132  
Tel: 305-381-8468 Fax: 305-381-8478  
Email: cctimia@attmail.com

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Email: steve@harico.attmail.com

Dole Ocean Liner Express  
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**Hydour, Ltd.\*\***  
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URL: www.hydeshipping.com  
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Kerr Norton  
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URL: www.kingocean.com  
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Maersk Line - Maersk, Inc.  
790 NW 107th Ave., Ste. 400, Miami FL 33172  
Tel: 800-321-8807/305-220-6660 Fax: 305-220-4680  
URL: www.maerskline.com

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Agent: Norton Lilly International  
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Tel: 305-471-0059 Fax: 305-471-0261

OOCL (USA) Inc.  
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Atlanta GA 30338  
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Tel: 800-742-2460/305-591-2100 Fax: 305-599-2620  
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**Seaboard Marine Ltd.**  
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Tel: 305-863-4444 Fax: 305-863-4400  
URL: www.seaboardmarine.com  
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SeaFreight Line, Ltd.\*\*  
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Tel: 305-592-6060 Fax: 305-471-9555

Sea-Land Service, Inc.\*\*  
PO Box 13041, Port Everglades FL 33316  
Tel: 954-525-0344 Fax: 954-357-4796  
URL: www.sealand.com

Solymar\*\*  
Agent: St. John's Shipping  
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Tel: 954-522-0331/305-477-8031 Fax: 305-477-7823  
Email: sjshipping@aol.com

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Tel: 305-597-7000 Fax: 305-591-8937  
Email: ship-w/tml@tecmarine.com  
URL: www.tecmarine.com  
Please see our Display Ad pg. 31

**Thompson Line\*\***  
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Tel: 305-913-8226 Fax: 305-913-4930  
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Transporte Dos Rios de Navegacion  
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Tel: 713-688-6797 Fax: 713-688-6793  
Email: david\_gomez@transportedosrios.com  
URL: www.transportedosrios.com

Trinity Shipping Line, S.A.  
5520 NW 72nd Ave., Miami FL 33166  
Tel: 305-888-2277 Fax: 305-888-9274  
URL: www.worldwideagency.com

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Tel: 561-881-3900 Fax: 561-840-2744

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Assistant to Port Director

**Jeff Brown**  
Director of Public Safety

**Ellen Kennedy**  
Manager,  
Corporate/Community Relations

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**4** Message From the County Administrator

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*A new era of leadership in cargo and cruise drives growth*

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*Port Everglades is recognized as one of the top U.S. containerports*

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sales@derecktor-florida.com  
www.derecktor.com

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Fax: 954-764-6931  
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2000 Eller Drive, Port Everglades FL 33316  
Al McNab, General Manager  
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### Interocean

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Juan Llambes, Mgr.

### Kerr Norton Marine

8390 NW 53rd St., Ste. 102, Miami FL 33166  
Ray Hernandez, Operations

### King Ocean Service

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Fax: 954-522-6463

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Fax: 305-477-5177

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Fax: 954-767-9991

turksis1@aol.com

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www.seastarline.com

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david@seafreightagencies.com  
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**Solymar**  
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Robert Callahan, Sr. Vice President  
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Fax: 954-331-1950  
rc@tecmarine.com  
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**Thompson Line\***  
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Anna Koldys, Trade Manager  
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**Tel: 305-913-8226**  
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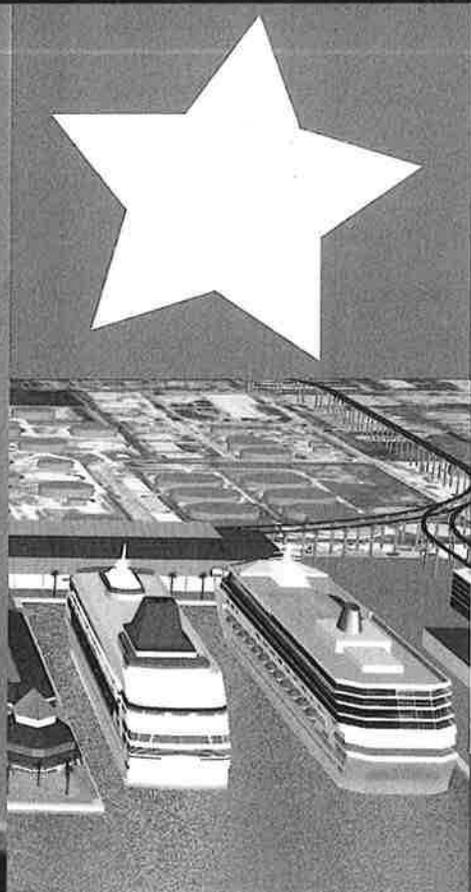


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FLORIDA



# PORT EVERGLADES

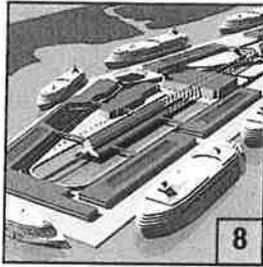
GUIDE & DIRECTORY



**2003**

# PORT EVERGLADES

## BROWARD COUNTY, FLORIDA



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### Broward County Board of Commissioners

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District 2

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District 3

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Fax: 305-374-3931  
www.cruise catering.com

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turksis1@aol.com

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Fax: 305-374-3931  
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Meridian Ship Managers  
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jkafouros@meridianship.com  
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Tel: 954-767-8686  
Fax: 954-767-9979  
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triton@cruise catering.com  
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Fax: 305-374-3931  
www.cruise catering.com

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www.derecktor-florida.com

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miami@goltens.com

Tel: 305-573-4410  
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www.goltens.com

Miami Diver, Inc.  
2994 N. Miami Ave., Miami, FL 33127  
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See our Ad on Inside Back Cover

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Tel: 954-767-9990  
Fax: 954-767-9991  
turksis1@aol.com

CMA CGM (Caribbean Inc.)  
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hojmartins@cma-cgm.com

Tel: 305-477-0216  
Fax: 305-477-4918  
www.cma-cgm.com

Columbia Coastal Transport  
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Tel: 305-591-1088  
Fax: 305-591-2515  
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PO Box 359004, Ft. Laud., FL 33335  
4300 McIntosh Rd., Ft. Laud., FL 33316  
michael.hopkins@crowley.com  
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Tel: 954-760-7900  
Fax: 954-470-4005/470-4064  
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Dockwise/United Yacht Transport, Inc.  
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dwt.usa@dockwise.com

Tel: 954-525-8707  
Fax: 954-525-8711  
www.yacht-transport.com

Dole Ocean Liner Express  
Agent: Norton Lilly International  
PO Box 5132, Westlake Village CA 91362  
3505 SE 20th St., Ft. Laud., FL 33316

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Fax: 954-522-3180  
www.doleoceanliner.com

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Tel: 305-572-2300  
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Tel: 305-471-7800  
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atops@autoterminal.com

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Fax: 954-331-1447  
www.hualna.com

Hybur, Ltd., Agent: Hyde Shipping Corp.  
10025 NW 116th Way, Ste. 1, Medley, FL 33178  
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Tel: 305-913-4933  
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www.hydeshipping.com

# PORT EVERGLADES

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containers  
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Any door is loaded

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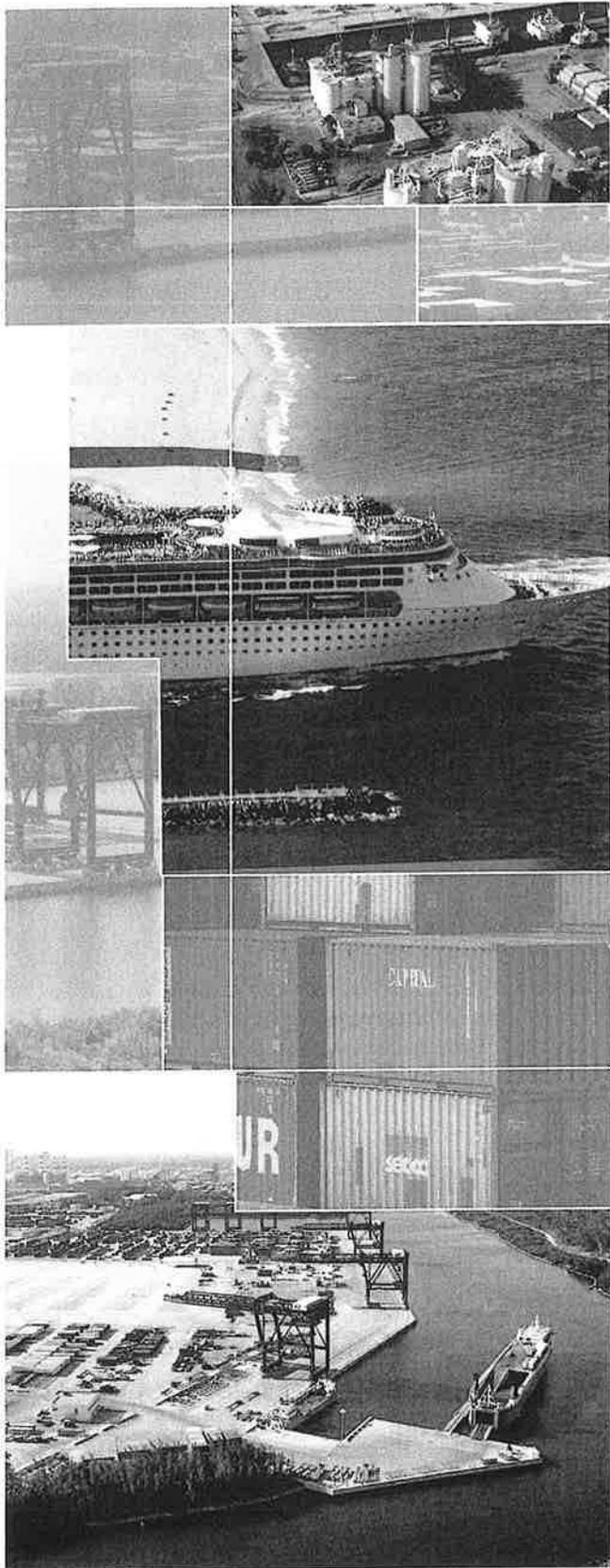
MGW	30 480 KG
	67 200 LBS
WE	22 400 KG
	49 400 LBS
PAYLOAD	26 180 KG
	57 720 LBS

48 51 40 5

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*Vigorizando el Condado Broward por 76 Años*

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Derecktor of Florida  
775 Taylor Ln., Dania Beach FL 33004  
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www.derecktor-florida.com

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APL Limited  
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Tel: 305-468-3100

APM Terminals  
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Port Everglades, FL 33316  
Tel: 954-410-2933

Arawak Shipping Line  
Agent: Greencove Maritime Inc.  
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Tel: 954-467-2355

ATG American Transportation Group  
8525 NW 53 Terr., Ste. 115, Miami, FL 33166  
Tel: 305-591-7356

B & R Agencies, Inc.  
8095 NW 12th St., Ste. 100, Miami, FL 33126  
Tel: 305-702-4343

Bernuth Agencies, Inc  
3201 N W 24 Street Road, Miami, FL 33142  
Tel: 305-633-7711

Caicos Cargo Ltd.  
Agent: Turks Island Shipping Line (OMS)  
PO Box 21852, Ft. Lauderdale, FL 33335  
Tel: 954-767-9990

Cari Freight Shipping Co., Ltd.  
3625 NW 82nd Ave., Ste. 204, Miami, FL 33166  
Tel: 305-477-3791

Caribbean Sea Carriers, Inc.  
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www.chiquita.com

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CMA CGM  
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Tel: 305-477-0216

Columbia Coastal Transport  
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Tel: 305-591-1088

Continental Florida Materials, Inc.  
P. O. Box 13128, Ft. Lauderdale, FL 33316  
Tel: 954-351-1800

Cosco North America Inc  
100 Lighting Way, 4th Floor, Secaucus, NJ 07094-5611  
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Tel: 954-760-7900 Fax: 954-470-4005/470-4064  
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CSAV  
8525 N W 53 Terrace, Ste. 115, Miami, FL 33166  
Tel: 305-591-0402

Delmas Line  
c/o Harrington & Co., Inc.  
PO Box 13028, Ft. Lauderdale, FL 33316  
Tel: 954-525-4204

Dole Ocean Cargo Express  
9485 Regency Square Blvd. #425  
Jacksonville, FL 32225  
Tel: 601-867-2940

Ecuadorian Line  
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Tel: 305-779-4241

Evergreen America Corp.  
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Tel: 305-572-2300 Fax: 305-573-8377  
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F.T.S.  
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G & G Shipping  
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Tel: 954-920-9292

Galmar Shipping  
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Tel: 954-764-1171

Great White Fleet  
3030 N.E. 2nd Ave., Miami, FL 33137  
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Hamburg Sud  
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Interocean  
703 NW 52nd Ave. Ste. 650, Miami, FL 33126-4676  
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Interport Services  
8390 NW 53 Street, Ste. 220, Miami, FL 33166  
Tel: 305-418-4070

Kerr Norton Marine  
8390 NW 53rd St., Ste. 102, Miami, FL 33166  
Tel: 305-591-7500

King Ocean Service  
7570 NW 14th St., Miami FL 33126  
Tel: 305-591-7595 Fax: 305-593-9769  
www.kingocean.com  
*Port Tenant*

Lloyd Triestino America Corp  
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Tel: 305-572-2315

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www.maersksealand.com  
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Marine Cargo Management, Inc.  
P.O. Box 21647, Ft. Lauderdale, FL 33335-1647  
Tel: 954-331-2000

**MEDITERRANEAN SHIPPING COMPANY**  
7220 NW 36 St #228, Miami FL 33166  
Tel: 305-477-9277 www.msosgva.com  
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Mitsui O S K Lines  
Harborside Financial Center, Plaza 111  
Jersery City, NJ 7311  
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Mostar Maritime LLC  
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Tel: 305-357-0284

NAPSA Administration Corp. (NAPSA Line)  
Agent: Norton Lilly International  
8390 NW 53rd St., Ste. 102, Miami, FL 33166  
Tel: 305-591-7500

Norton Lilly International  
8390 NW 53rd St., Ste. 102, Miami, FL 33166  
Tel: 305-591-7500

Oceanic Steamship Co.  
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www.scmilines.com  
*PE Association*

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www.seastarline.com  
*See our Ad on pg. 22*

Seaboard Marine Ltd., Inc.  
8050 NW 79th Ave., Miami FL 33166-2154  
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**SEAFREIGHT LINE, LTD.**  
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www.seafrighthandling.com  
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Senator Lines  
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Tel: (954) 527-0034

Strachan Shipping Company  
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**TROPICAL SHIPPING**  
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United Yacht Transport, Inc.  
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Universal Maritime Service Corp.  
2299 Port Blvd., Miami, FL 33132  
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V. Ships Agency  
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Tel: 305-579-9236

Worldwide Shore Service  
P.O. Box 13135, Ft. Lauderdale, FL 33316  
Tel: 954-462-7060

Yangming Marine Line  
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Z I M American Israeli Shipping  
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Coleary Transport Company, Inc.  
PO Box 267396, Weston FL 33326  
Tel: 954-384-7512 Fax: 954-384-7225  
*Steamship Agents Franchise; Stevedores/Cargo Handlers Franchise*

Colmar Storage, LLC  
6695 NW 36th Ave., Miami FL 33147-7519  
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Continental Florida Materials Inc.  
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www.lehighcement.com  
*Port Tenant; Stevedores/Cargo Handlers Franchise*

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www.farovi.com  
*Stevedores/Cargo Handlers Franchise. Contracting Stevedores, Terminal Operators & Cargo Handlers. See our Ad on pg. 58*

Florida Transportation Services, Inc.  
PO Box 22696, Ft. Lauderdale FL 33335  
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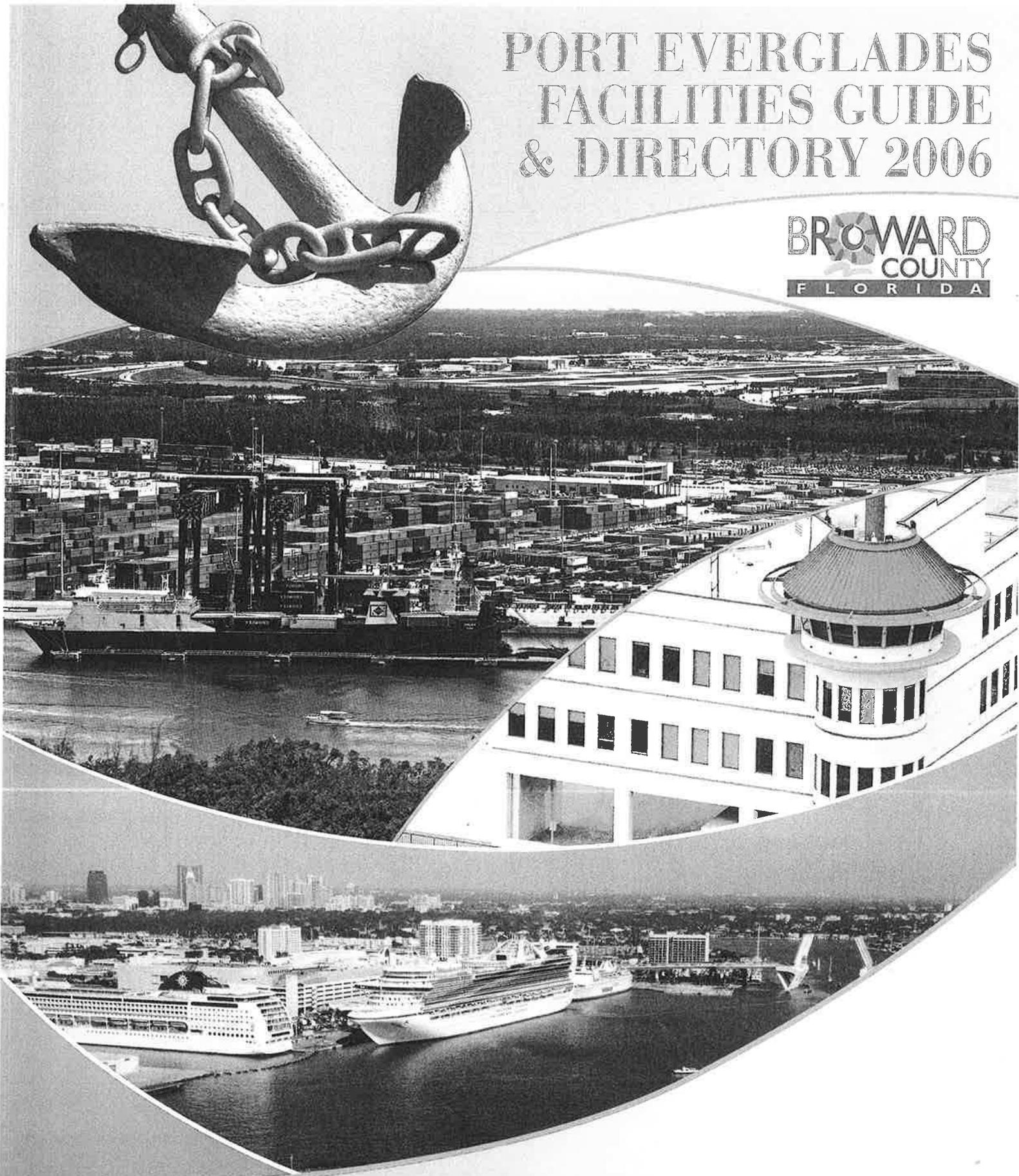
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**BROWARD**  
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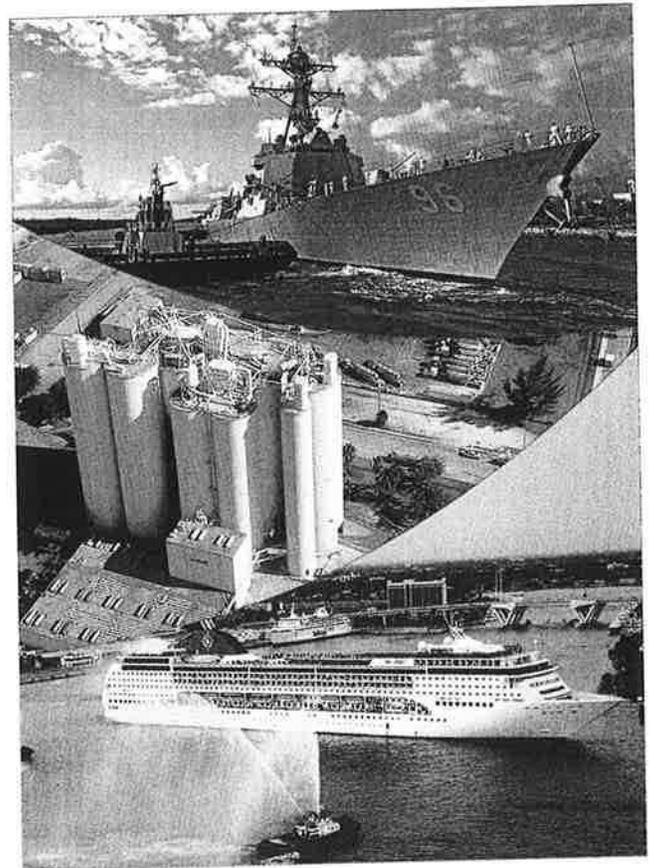


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BROWARD COUNTY, FLORIDA

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## PORT EVERGLADES BROWARD COUNTY, FLORIDA

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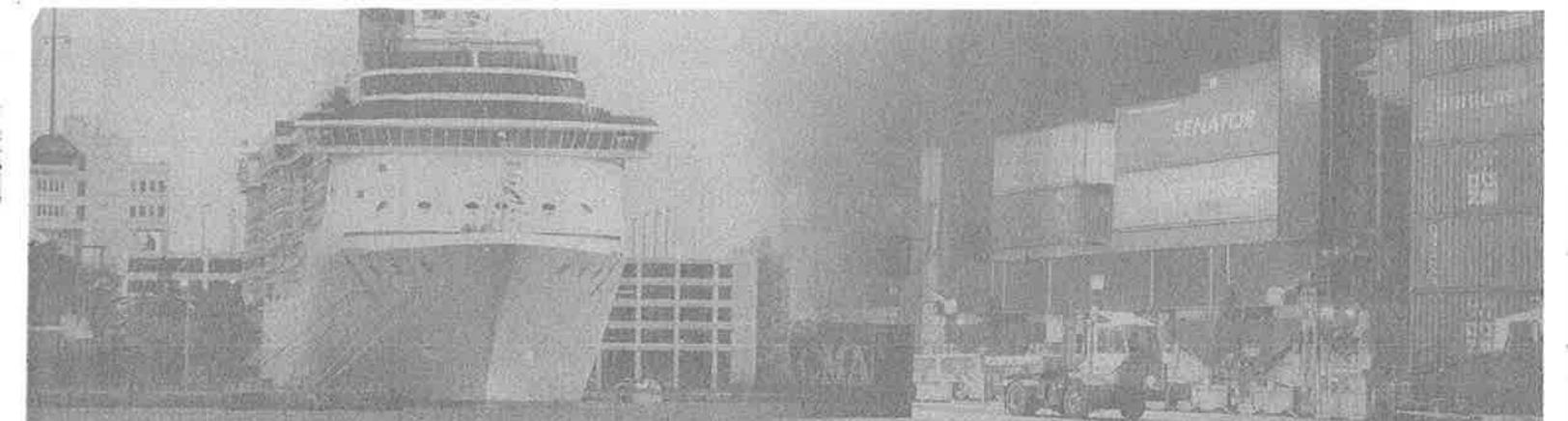
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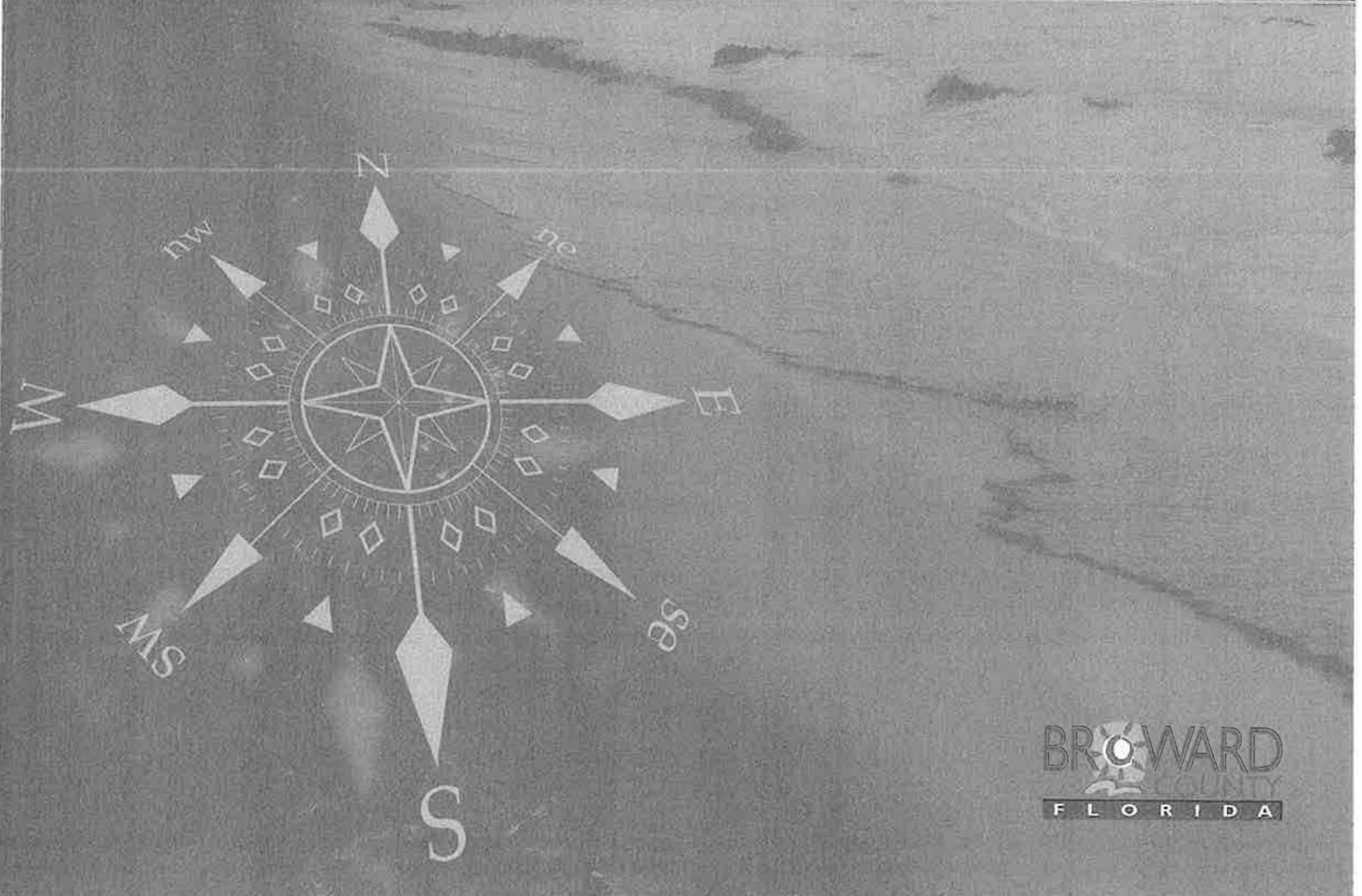
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FACILITIES GUIDE & DIRECTORY 2007-2008



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## PORT EVERGLADES

### BROWARD COUNTY, FLORIDA

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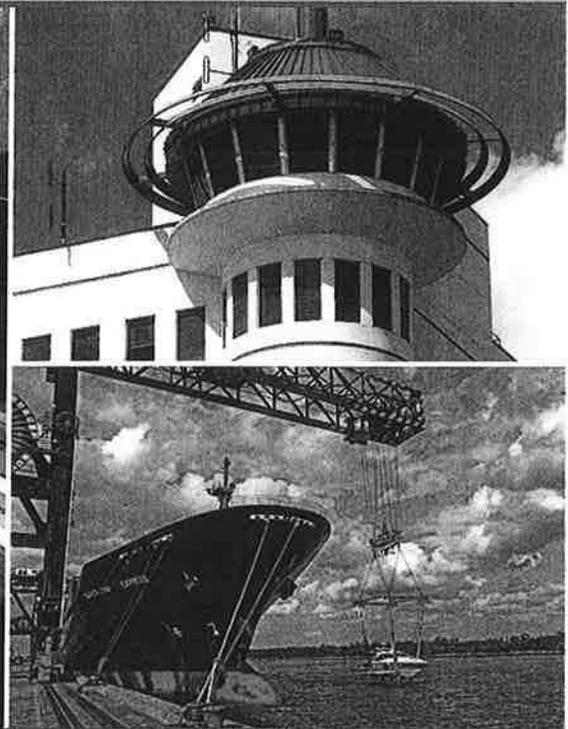
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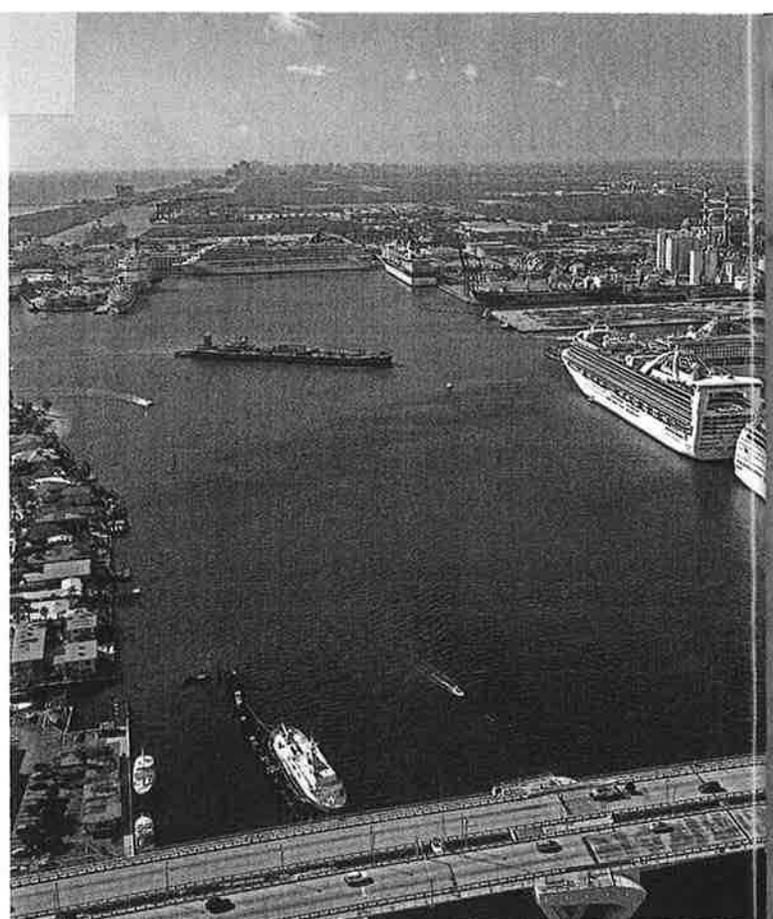
*We're ready. Bring it on.*



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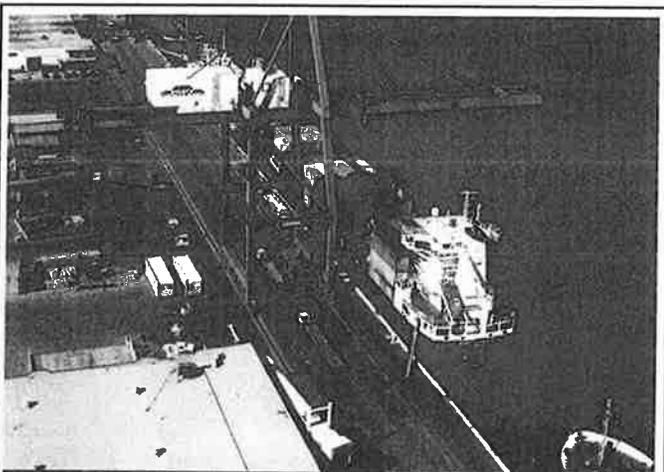
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# Port Everglades

FACILITIES GUIDE & DIRECTORY 2010



PORT  
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BROWARD COUNTY  
FLORIDA

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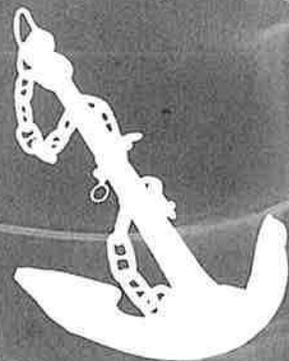
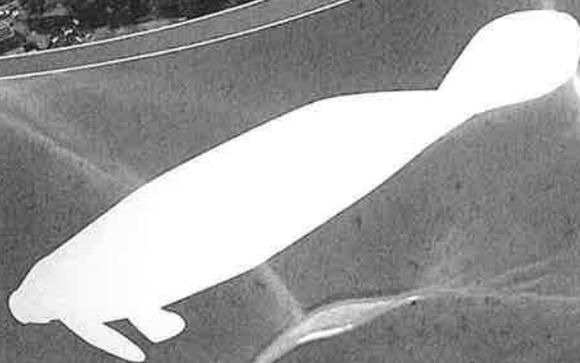
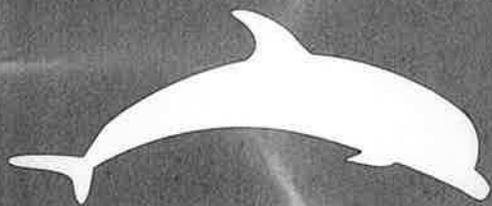
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FACILITIES GUIDE & DIRECTORY 2011-2012



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Cover Photo: The air-sea connection is short between Port Everglades and nearby Fort Lauderdale-Hollywood International Airport as depicted in this aerial photograph.

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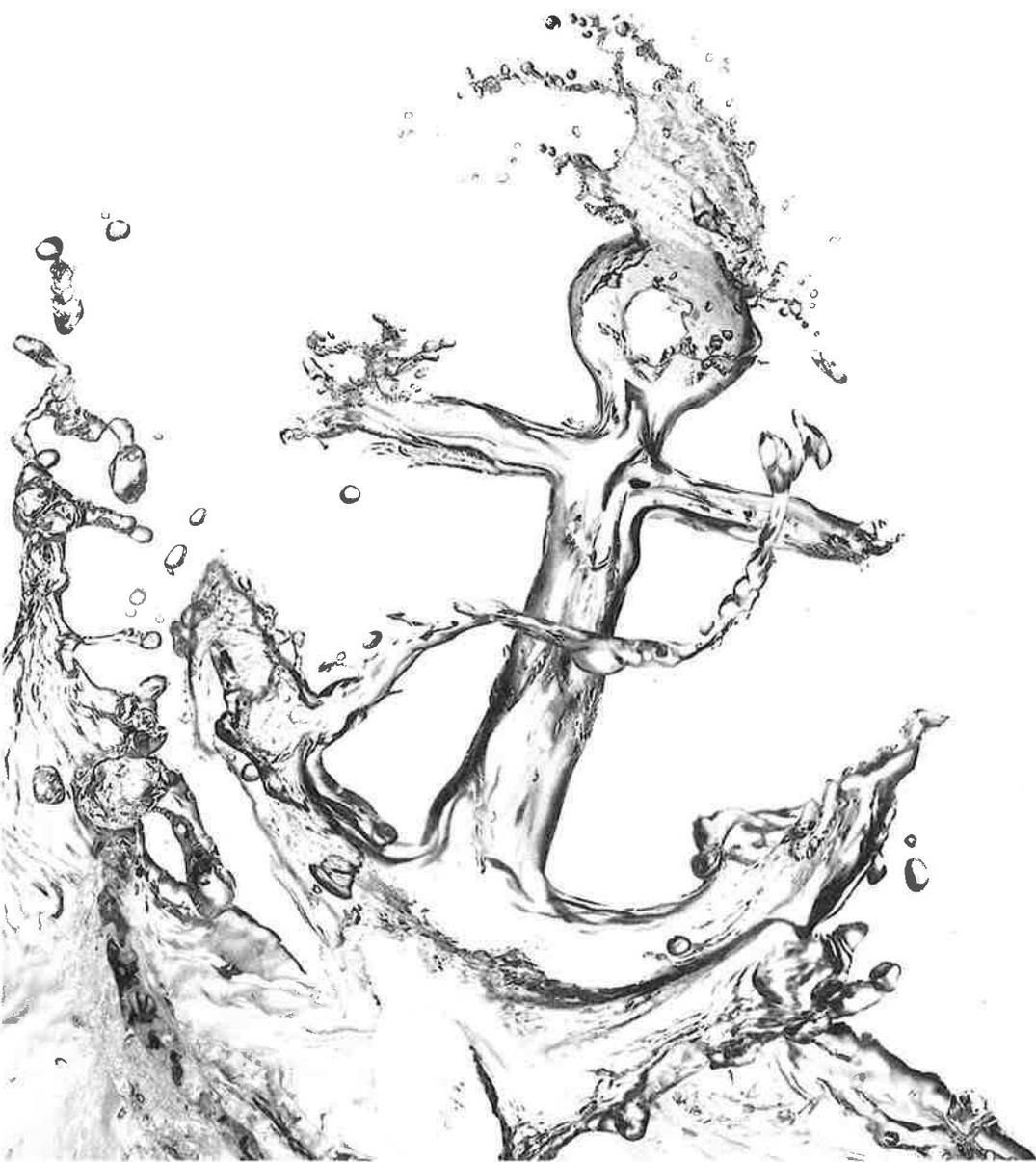
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PORT EVERGLADES 2012-2013

# FACILITIES GUIDE & DIRECTORY



**BROWARD**  
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South Florida's Powerhouse Port

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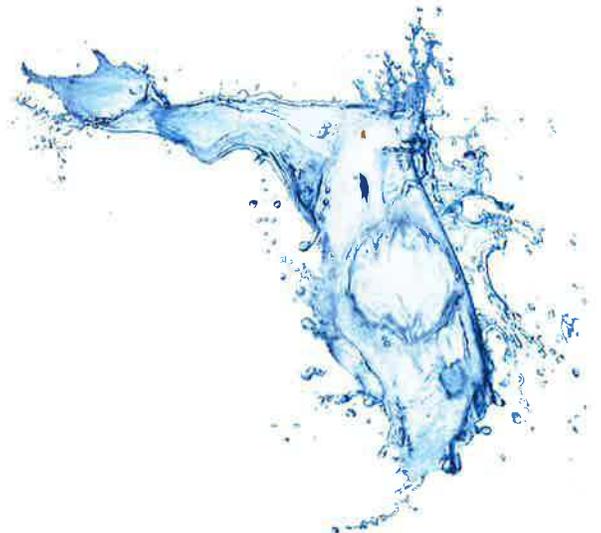
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pevops@tparkerhost.com • tparkerhost.com  
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**TF MARINE, INC.**  
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Tel: 954-579-9238 Fax: 305-579-9238  
agency.florida@tfmarine.com • tfmarine.com

**USA MARITIME ENTERPRISES, INC.**  
P.O. Box 22723, Fort Lauderdale, FL 33335  
Tel: 954-764-8360 Fax: 954-761-7672  
operations@usmaritime.us

**VALLS SHIP AGENCIES, L.P.**  
2550 Eisenhower Blvd., Suite 210, Fort Lauderdale, FL 33316  
Tel: 954-764-8434 Fax: 954-763-8093  
agency.everglades@vallsgroup.com  
SEE AD ON PAGE 42

**WILHELMSSEN SHIPS SERVICE, INC.**  
8030 N.W. 77th Cr., Suite 706, Miami, FL 33166  
Tel: 305-883-3829 Fax: 305-675-9263  
wss.miami.shipsagency@wilhelmsen.com • wilhelmsen.com

## SHIP CHANDLERY/SHIP STORES

**SHIP SUPPLY OF FLORIDA, INC.**  
15065 N.W. 7th Ave., Miami, FL 33168  
Tel: 305-681-7447 Fax: 305-769-3502  
info@shipsup.com • shipsup.com

## SHIPPING LINES

**AGRIEX/SOL SHIPPING**  
Tel: 954-783-3076  
agriex.com.au

**CCNI (COMPANIA CHILENA DE NAVEGACION INTEROCEANICA, S.A.)**  
8401 N.W. 53rd Ter., Suite 107, Miami, FL 33166  
Tel: 786-845-9212 Fax: 305-594-0145  
ccni.cl

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Tel: Booking: 888-724-5493  
greatwhitefleet@greatwhitefleet.com • greatwhitefleet.com

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# Directory

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4300 McIntosh Rd., Fort Lauderdale, FL 33316  
Tel: 954-760-7900  
salvador.menoyo@crowley.com • crowley.com/partner

## DOCKWISE/UNITED YACHT TRANSPORT

1535 S.E. 17th St., Suite 200, Fort Lauderdale, FL 33316  
Tel: 954-525-8707  
888-SHIP-DYT (744-7398) Fax: 954-525-8711  
dyt.usa@dockwise-yt.com • yacht-transport.com

## DOLE OCEAN LINER EXPRESS

P.O. Box 350651, Fort Lauderdale, FL 33335  
Tel: 305-591-7500 Fax: 954-522-0364  
doleoceancargo.com

## FRONTIER LINER SERVICES

8390 N.W. 53rd St., Suite 201, Miami, FL 33166  
Tel: 305-471-7800 Fax: 305-471-7002  
buokings@frontierliner.com • frontierliner.com

## HAMBURG SUD NORTH AMERICA, INC.

2550 Eisenhower Blvd., Suite 304, Fort Lauderdale, FL 33166  
Tel: 954-761-3134 Fax: 954-761-2656  
info.sff@us.hamburgsud.com • hamburgsud.com

## HAPAG-LLOYD (AMERICA), INC.

6001 Chatham Center Dr., Suite 200, Savannah, GA 31405  
Tel: 888-851-4083 Fax: 770-419-5667  
tom.foley@hlog.com • hapag-lloyd.com

## HYBUR, LTD.

10025 N.W. 116th Way, Suite 2, Medley, FL 33178  
Tel: 305-913-4933 Fax: 305-913-4900  
hydeshipping.com

## INTEROCEAN LINES

703 Waterford Way, Miami, FL 33126  
Tel: 305-375-8004 Fax: 305-372-2997  
interoceanlines.com

## KING OCEAN SERVICE

11000 N.W. 29th St., Suite 201, Miami, FL 33172  
Tel: 305-591-7595 Fax: 305-593-9842  
info@king-ocean.com • kingocean.com

## MAILBOAT CO.

1800 S.E. 19th Ave., Alex Bravo Warehouse #4, Fort Lauderdale, FL 33316  
Tel: 954-527-0034 Fax: 954-522-4828  
mailboatbahamas.com

## MEDITERRANEAN SHIPPING COMPANY, (USA), INC.

8240 N.W. 52nd Ter., Suite 200, Miami, FL 33166  
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## NAVIERA MASTER LINE

Tel: 305-599-9935 • www.masterline.com.ve/

## SC LINE

8669 N.W. 36th St., Suite 335, Doral, FL 33166  
Tel: 305-767-1900 • usa@scline.es • scline.com

## SEA STAR LINE, LLC

2990 Eisenhower Blvd., Port Everglades, FL 32216  
Tel: 954-527-1426 Fax: 954-525-3669  
rodriguez@seastarline.com • seastarline.com

## SEAFREIGHT LINE LTD.

2800 N.W. 105th Ave., Miami, FL 33172  
Tel: 305-592-6060 Fax: 305-471-9555

4610 McIntosh Rd., Port Everglades, FL 33316

Tel: 954-763-0916 Fax: 954-763-0923  
dvargas@seafreightagencies.com • seafreightagencies.com  
SEE AD ON PAGE 26

## TRINITY SHIPPING LINE

8950 S.W. 74th Ct., Suite 1612, Miami, FL 33156  
Tel: 305-888-2277  
yonofre@trinityshippingline.com • trinityshippingline.com  
SEE AD ON PAGE 42

## ZIM AMERICAN INTEGRATED SHIPPING SERVICES CO., INC.

8095 N.W. 12th St., Suite 100, Miami, FL 33126  
Tel: 305-423-7400 Fax: 305-423-7414 • zim.co.il

## SHIPYARDS & REPAIR SERVICES

### MILLMAC CORPORATION

12457 N.W. 44th St., Coral Springs, FL 33065  
Tel: 954-345-4406 Fax: 954-345-4347  
ludor@millmac.com • millmac.com

## STEVEDORING & CARGO HANDLING SERVICES

### CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC

P.O. Box 13144, Fort Lauderdale, FL 33316  
Tel: 954-523-9683 Fax: 954-728-8212  
Cemex.com

### CHIQUITA FRESH NORTH AMERICA, LLC

2051 S.E. 35th St., Fort Lauderdale, FL 33316  
Tel: 954-453-1200 Fax: 954-712-1279  
Chiquita.com

### COLEARY TRANSPORT COMPANY INC.

200 S.W. 1st Ave., Suite 800, Fort Lauderdale, FL 33301  
Tel: 786-251-2999 Fax: 954-708-2256

### CONTINENTAL FLORIDA MATERIALS, INC.

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Lehighcement.com

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crowley.com

### ELLER - ITO STEVEDORING COMPANY, LLC

1007 N. America Way, Suite 501, Miami, FL 33132  
Tel: 305-379-3700 Fax: 305-371-9969  
ellerito.com

### FLORIDA INTERNATIONAL TERMINAL, LLC

1800 Eller Drive, Suite 220  
Fort Lauderdale, FL 33316  
Tel: 954-761-3880 Fax: 954-524-3859  
fiptev.com

### FLORIDA STEVEDORING, INC.

125 N.E. Ninth St., Miami, FL 33132  
Tel: 305-373-4765 Fax: 305-371-6874

### FLORIDA TRANSPORTATION SERVICES, INC.

412 S.E. 18th St., Fort Lauderdale, FL 33316  
Tel: 954-764-8988 Fax: 954-764-3069  
jcguil@fltranserv.com

### G & G SHIPPING, LLC

1300 Eller Dr., Fort Lauderdale, FL 33316  
Tel: 954-920-9292 Fax: 954-922-8316  
mlafleur@gandgshipping.com • gandgshipping.com

### HOST TERMINALS, INC.

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metrocruseservices.com

### PORT CONTRACTORS - SOUTHEAST, LLC

529 Terminal Ave., New Castle, DE 19720  
Tel: 320-655-7300 Fax: 302-658-4075

## PORTUS - PEV LLC

3505 S.E. 19th Ave., Fort Lauderdale, FL 33316  
Tel: 904-757-1170  
jrmullins@portus-us.com • portus-us.com  
SEE AD ON PAGE 39

## R.O. WHITE & COMPANY, INC.

1850 Eller Dr., Suite 406, Fort Lauderdale, FL 33316  
Tel: 954-767-8644 Fax: 954-767-9996  
ceresglobal.com

## SOL SHIPPING SERVICES

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Tel: 954-781-0003 Fax: 954-946-5167

## SUN TERMINALS, INC.

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Tel: 954-524-8600 Fax: 954-524-1258  
kingocean.com

## UNITED STEVEDORING OF AMERICA, INC.

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sheriff@unitedstevedoring.com • unitedstevedoring.com

## TAXI/LIMOS/SHUTTLES

### 1818 CORP

Tel: 305-935-3182

### 212, LLC

Tel: 954-741-5466

### A & J MANAGEMENT CORP.

Tel: 954-923-9999

### A ABA - CAB AIRPORT SERVICE, INC.

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### A2Z LIMOUSINE, INC.

Tel: 954-792-2005

### AAA WHEELCHAIR WAGON SERVICE, INC

Tel: 954-523-2254

### ACE LIMO FORT LAUDERDALE, INC.

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Tel: 954-582-0816

### ALEXIS, LUDERS E

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### ALL BROWARD SERVICES INC

Tel: 954-359-7900

### ALLENBY ENTERPRISES, INC

Tel: 954-971-6861

### ALPINE LIMOUSINE INCORPORATED

Tel: 954-465-0140

### ALUXURY AIRPORT SERVICE, INC

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### ANDREI HOROVITZ

Tel: 954-704-0903

### ANNA INVESTMENTS, INC.

Tel: 954-914-9734

### ANZOLA, NEYDA

Tel: 954-920-0590

### ARANGO, SANDRA M.

Tel: 954-709-5779

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YACHT EXPRESS (/en/ais/details/ships/306814000)

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# Photos of YACHT EXPRESS (IMO: 9346029)

(/en/ais/details/ships/306814000/vessel:YACHT%20EXPRESS)

Browse and rate photos uploaded by our community. Filter the results based on the photo properties.

9346029 (/en/photos/of/ships/page:1)

Upload a photo (/en/photos/upload/mmsi:306814000/vessel:YACHT%20EXPRESS/type:0) Suggest photo keywords:9346029

▼ Photo details

<b>Place of Photo</b>	GENOA 44.407°, 8.763°
<b>Date Taken</b>	2012-06-16 10:36
<b>Uploaded</b>	2012-08-21 06:26
<b>Original Size</b>	4752 x 3168 pixels
<b>Camera &amp; Settings</b>	<b>MODEL:</b> Canon EOS 50D <b>Exposure:</b> 1/320, 8.0 <b>ISO:</b> 100, f.length:85mm

Photographer



Leandro Malavasi MarineTraffic.com



Salvatore Tiveri (Santa Maria Navarrese)

**YACHT EXPRESS** 4.6  
(/en/ais/details/ships/306814000) 11 votes

Arbatax  
2013-02-23 17:10  
Salvatore Tiveri (Santa Maria Navarrese)



DAVID BERMUDEZ PAREDES MarineTraffic.com

**YACHT EXPRESS** 4.5  
(/en/ais/details/ships/306814000) 10 votes

Ceuta  
-  
DAVID BERMUDEZ PAREDES



**YACHT EXPRESS** 4.8  
(/en/ais/details/ships/306814000) 8 votes

Genoa  
-  
litvinov (/en/photos/hv/copyright-%F2%)

YACHT EXPRESS GENOA

(5 votes) VTE



**YACHT EXPRESS** 5.0  
(/en/ais/details/ships/306814000) 5 votes

Port Everglades, Florida, U.S.A.

GENOA

(/en/)

YACHT EXPRESS (/en/ais/details/ships/306814000)

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(/en/photos/of/thumb150: true/photo\_keywords:9346029)

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Upload a photo (/en/photos/upload/mmsi:...

ers (/en/photos/of/s

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Benjamin Marfil MarineTraffic.com



YACHT EXPRESS 4.6 (/en/ais/details/ships/306814000) 11 votes

Arbatax 2013-02-23 17:10 Salvatore Triveri (Santa Maria Navarrese)



YACHT EXPRESS Ceuta - SPAIN



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YACHT EXPRESS 5.0 (/en/ais/details/ships/306814000) 5 votes

GENOA 2012-06-16 10:36

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**YACHT EXPRESS**  
(/en/ais/details/ships/306814000)

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Upload a photo (/en/photos/upload/mmsi:306814000/vessel:YACHT%20EXPRESS/type:Car

(/en/photos/of/thumb150:trve/photo\_keywords:9346029)

Photographer

photo (/en/photos/upload/mmsi:



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Arbatax  
2013-02-23 17:10  
Salvatore Tuveri (Santa Maria Navarrese)



**YACHT EXPRESS** 4.5  
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Ceuta  
-  
DAVID BERMÚDEZ PAREDES



**YACHT EXPRESS** 4.8  
(/en/ais/details/ships/306814000) 8 votes

Genoa  
-  
litvinov (/en/photos/by/copyright:%E2%



**YACHT EXPRESS** 5.0  
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**YACHT EXPRESS** 5.0  
(/en/ais/details/ships/306814000) 5 votes

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**YACHT EXPRESS** 5.0  
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9346029 (/en/photos/of/ships/page:1)

Upload a photo (/en/photos/upload/mmsi:306814000/vessel:YACHT%20EXPRESS/type:Car

(/en/photos/of/thumb:150:trve:photo\_keywords:9346029)

Photographer

Upload a photo (/en/photos/upload/mmsi:



**YACHT EXPRESS** 4.6  
(/en/ais/details/ships/306814000) 11 votes

Arbatax  
2013-02-23 17:10  
Salvatore Triveri (Santa Maria Navarrese)

**YACHT EXPRESS** 4.5  
(/en/ais/details/ships/306814000) 10 votes

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-  
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**YACHT EXPRESS** 4.8  
(/en/ais/details/ships/306814000) 8 votes

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-  
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**YACHT EXPRESS** Arbatax (11 votes)



**YACHT EXPRESS** 5.0  
(/en/ais/details/ships/306814000) 5 votes

GENOA  
2012-06-16 10:36





MMSI: 306814000  
Callsign: PJVV

**Additional Information**

Class society: Det Norske Veritas  
Build year: 2007  
Builder (\*): Cimc Raffles Offshore  
Yantai, China  
Owner: Spliethoff Transport  
Amsterdam, Netherlands  
Manager: Anglo Eastern Shipmanagement  
Hong Kong, China

Location: Genoa  
Arrival: 11th Nov 2014  
12:00:40 UTC  
Last update:  
8 days 3 hours ago  
Source: AIS (AirNav ShipTrax)

Ship information by [AirNav ShipTrax](#) and [GrossTonnage.com](#). [Report error in ship details](#)

**Port history**

2014 November 11th, 12:00:40 UTC	Genoa
2014 October 3rd, 12:00:31 UTC	Algeciras
2014 September 17th, 09:00:09 UTC	Port Everglades
2014 August 6th, 06:00:52 UTC	Palma De Mallorca
2014 July 19th, 20:30:59 UTC	Port Everglades
2014 July 6th, 15:00:40 UTC	Algeciras
2014 June 29th, 15:00:25 UTC	Genoa
2014 June 11th, 07:00:39 UTC	Port Everglades
2014 May 30th, 17:00:35 UTC	Setubal
2013 December 6th, 10:00:12 UTC	Martinique



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## Yacht Express - IMO 9346029

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### Photo Details

**Photographer:** Wil Weijsters [\[View profile\]](#) **Title:** Yacht Express  
**Captured:** March 09, 2012 **Added:** Jul 25, 2014  
**Location:** St Thomas, Charlotte Amalie, Virgin Islands (US) **Hits:** 262  
**Photo Category:** Heavy Lift Vessels  
**Description:** Departure from St Thomas, U.S.V.I. on 09-03-2012

### Vessel Identification

  
**Name:** Yacht Express  
**IMO:** 9346029  
**Flag:** Curacao

### Technical Data

**Vessel type:** Heavy Lift Vessel  
**Gross tonnage:** 17,951 tons  
**Summer DWT:** 10,969 tons  
**Length:** 209 m  
**Beam:** 32 m  
**Draught:** 6 m

### AIS Information

**Last known position:** 26°9'47.57" N, 78°35'40.87" W  
**Status:** Underway  
**Speed, course (heading):** 12.3kts, 97° (93°)  
**Destination:**

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MMSI: 306814000  
Callsign: PJVV

**Additional Information**

Class society: Det Norske Veritas  
Build year: 2007  
Builder (\*): Cimc Raffles Offshore  
Owner: Spilthoff Transport  
Manager: Anglo Eastern Shipmanagement  
Hong Kong, China

Location: Genoa  
Arrival: 11th Nov 2014  
12:00:40 UTC  
Last update:  
8 days 3 hours ago  
Source: AIS (AirNav ShipTrax)

Ship information by [AirNav ShipTrax](#) and [GrossTonnage.com](#). [Report error in ship details.](#)

**Port history**

2014 November 11th, 12:00:40 UTC	Genoa
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2014 July 19th, 20:30:59 UTC	Port Everglades
2014 July 6th, 15:00:40 UTC	Algeciras
2014 June 29th, 15:00:25 UTC	Genoa
2014 June 11th, 07:00:39 UTC	Port Everglades
2014 May 30th, 17:00:35 UTC	Setubal
2013 December 6th, 10:00:12 UTC	Martinique

**More Of This Ship**



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**EXHIBIT 5**



**Strasburger**  
ATTORNEYS AT LAW

August 20, 2013

JOHN A. TANG  
713.951.5623  
Direct Fax: 832.397.3532  
john.tang@strasburger.com

**VIA FEDERAL EXPRESS DELIVERY**

Michael Uhr  
Manager  
United Yacht Transport, LLC  
2830 State Road 84, Suite 118  
Dania Beach, FL 33312

Corporation Service Company (Registered agent for United Yacht Transport, LLC)  
1201 Hays Street  
Tallahassee, FL 32301-2525

RE: Infringement of the mark UNITED YACHT TRANSPORT by United Yacht  
Transport, LLC (a Delaware limited liability company)  
Our file no.: 10418.0104

Dear Mr. Uhr and Registered Agent:

This Firm represents Dockwise Shipping, B.V. ("Dockwise") of the Netherlands with U.S. offices in Fort Lauderdale, FL, and Houston, TX, in connection with certain trademark and unfair competition matters. As you know, Dockwise provides, *inter alia*, yacht transport services.

Dockwise has used since 1992, and continues to use in commerce, the mark UNITED YACHT TRANSPORT (the "Mark") in connection with yacht transport services. Dockwise has extensively promoted and advertised its services under this Mark. Dockwise also uses the Mark on vessels that transport yachts from Port Everglades, FL (see Exhibit A), and other U.S. and worldwide ports. In fact, Dockwise's United Yacht Transport is listed in the Port Everglade's directory (see Exhibit B, highlighted area added). As a result of the continuous and extensive use in commerce of the Mark by Dockwise and the favorable response of the relevant public and trade to the Mark and services, the Mark has become a valuable asset of Dockwise.

It has recently come to our attention that United Yacht Transport, LLC is using the identical mark United Yacht Transport on the internet at [www.united-yacht.com](http://www.united-yacht.com) (the "Domain Name") for yacht transport services. (A copy of the home page of the Domain Name is attached as Exhibit C). Records from GoDaddy.com's Whois database indicate that the Domain Name was registered on July 25, 2013, wherein the owner of

**Strasburger & Price, LLP**

909 Fannin Street, Suite 2300 | Houston, Texas 77010-1036 | 713.951.5600 tel | 713.951.5660 fax | [www.strasburger.com](http://www.strasburger.com)

Austin | Collin County | Dallas | Houston | San Antonio | New York | Washington, D.C. | Mexico City | Strasburger & Price, SC  
1496019 1/SPH/10418/0104/082013

UYT\_0000124

**EXHIBIT 6**

# Strasburger

ATTORNEYS AT LAW

Michael Uhr  
Corporation Service Company  
August 20, 2013  
Page 2

the Domain Name—which we believe is connected to your company—has been masked by GoDaddy's proxy service (see Exhibit D).

In addition, a search of the U.S. Patent and Trademark Office records indicates that United Yacht Transport, LLC applied for U.S. registration of the mark UNITED YACHT TRANSPORT (U.S. Application serial number 86/031,633) on August 7, 2013 for transport by yachts by boat service (the "633 Application"). The '633 Application includes a first use date of the mark anywhere on July 16, 2013 and in commerce on August 5, 2013. Both of these dates are more than twenty (20) years from our client's first use date of its Mark.

As you know, the principals of your company tried to acquire our client's yacht transport business and United Yacht Transport mark through an intermediary. However, the transaction was never finalized. Our client has not given consent to United Yacht Transport, LLC to use or register the United Yacht Transport mark. Our client is thus concerned that United Yacht Transport's use and application for registration violate Dockwise's intellectual property rights. In view of its prior dealings with the principals of your company, our client considers your company's conduct as a willful infringement of our client's trademark.

We must request that United Yacht Transport, LLC refrain from further use or application for registration of the United Yacht Transport mark. We ask that you provide to us written confirmation within fourteen (14) days of the date of your receipt of this letter that your client will take steps to **immediately**:

- (1) Terminate use of the United Yacht Transport mark or any other confusingly similar mark;
- (2) Terminate, remove or destroy all advertising, including print or electronic publications, such as the website, with the United Yacht Transport mark or any other confusingly similar mark;
- (3) Change your corporate name to a name not confusingly similar to the United Yacht Transport name;
- (4) Abandon U.S. Application No. 86/031,633 and agree not to file further applications for registration of the United Yacht Transport mark or any other confusingly similar mark; and
- (5) Transfer the Domain Name to our client.

UYT\_0000125

**Strasburger**  
ATTORNEYS AT LAW

Michael Uhr  
Corporation Service Company  
August 20, 2013  
Page 3

Also, we request that United Yacht Transport, LLC's owners, employees and agents, commit not to use or register the United Yacht Transport mark or any other confusingly similar mark.

Dockwise would like to amicably settle this matter; thus we await your response.

This letter is made without prejudice to any action that may be taken in the event that further action is necessary to protect the valuable rights of our client's Mark.

Sincerely,

STRASBURGER & PRICE, LLP

  
John A. Tang  
Enclosures

cc: Dockwise Shipping B.V.  
Garney Griggs, Esq.

UYT\_0000126

At Port Everglades, FL



UYT\_0000127



[cruising](#) [cargo](#) [business](#) [media](#) [community](#)

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### Shipping Lines

CARGO LINE	BOOKING AGENT TEL	SERVES
AGRIEX	954-785-1078	Guatemala, Honduras, Nicaragua, El Salvador, Jamaica Frequency: Weekly Type: Container, General Cargo
CCNI Compania Chilena de Navegación Interoceánica, S A	788 945-9212	U.S. East Coast, South America, West Coast Frequency: Weekly Type: Container
Chiquita - Great White Fleet	888-724-5493	U.S. Central America, Europe Frequency: Weekly Type: Container
Chilean Line - CSAV	600-804-9391	Colombia, South America - West Coast Frequency: Weekly Type: Container
Crowley Liner Services	305-470-4000	Caribbean, Central America Frequency: Weekly Type: Container, Project Cargo, RORO, Trailers
Decadent United Youth Transport	954-525-8707	Caribbean, Mediterranean, Mexico, Canada-West Coast, Australia, New Zealand Frequency: Weekly Type: LCL, FPO
Dole Ocean Liner Express	305-581-7500	Costa Rica, Honduras, El Salvador Frequency: Weekly Type: Container
Frontier Liner Services	305-471-7800	Colombia Frequency: Weekly Type: Container
Hamburg Sud	954-781-3134	Venezuela, South America - West Coast Frequency: Weekly Type: Container
Hapag-Lloyd (America) Inc.	888-851-4083	Mediterranean
Hybur LTD	305-913-4933	Belize, Cayman Islands, Mexico, Honduras Frequency: Weekly Type: Container
Interocean	305-375-8004	Ecuador, Peru Frequency: Every 14 Days Type: Container, General Cargo
King Ocean Service	305-581-7595	Venezuela, Aruba, Curacao, Colombia, Costa Rica, Panama Frequency: 2X Weekly Type: Container, General Cargo
Mailboat Co. / St. John's Shipping	954-527-0034	Bahamas Frequency: 3X Weekly Type: General Cargo
Mediterranean Shipping Company	305-477-9277	Far East, South America, India Frequency: Weekly Type: Container
Montemar	800-804-9391	South America, Central America, U.S. East Coast Frequency: Weekly Type: Container
Naviera Master Line	305-589-9935	Colombia, Venezuela
SC Line	(US) 305-787-4810, 305-787-1900 (Panama) +507-830-5000 +507-282-5700	Colombia, Panama, Mexico, Venezuela, Dominican Republic Frequency: Bi-weekly Type: RORO
SeaFreight	305-592-8090	Aruba, Curacao, Jamaica, Cayman Islands, Costa Rica, Panama, Bonaire, Suriname, Trinidad, Venezuela Frequency: Weekly Type: Container, LCL, Breakbulk
Sea Star Line	954-527-1423	Puerto Rico, Caribbean, U.S. East Coast Frequency: Weekly Type: Container, Autos, General Cargo
Trinity Shipping Line	305-888-2277	Colombia, Ecuador, Peru Frequency: Every 14 Days Type: Container, General Cargo, Project Cargo
YB Bhinkus	954-574-4548	Bahamas

Containerized Cargo  
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Patrols  
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ship schedule

tariff

port map

what's new

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stats

<b>Zim Container Line</b>	<b>308-423-7400</b>	Frequency: Bi-Weekly Type: Container Mediterranean Frequency: Weekly Type: Container
-------------------------------	---------------------	--

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THE OFFICIAL SITE OF THE BROWARD COUNTY PORT EVERGLADES DEPARTMENT  
1850 Elder Drive, Fort Lauderdale, Florida 33310 (954) 523-3404



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**Professional Yacht Transport.**

United Yacht Transport, Inc. has a rich history of providing Florida yachters with the most professional and reliable means of yacht transportation. Through our highly skilled and experienced marine yard teams, both on shore and aboard our ships, we are dedicated to providing our customers with safe, efficient and reliable marine transportation. Whether you are one of the most experienced yacht owners in the yacht transportation industry, or a first-time vessel customer, we provide quality, safety and efficiency through continuous improvement and constant customer education.

**Global reach, local knowledge.**

With a comprehensive network of global agents and partners, United Yacht Transport can assure each our clients that the details of shipping and receiving their yacht at its final destination will be handled in a smooth and efficient manner.

**Experience.**

United Yacht Transport has assembled a team of the most experienced personnel from within the yachting industry. It is our experienced team of professionals that sets us apart from our competitors. We can guarantee our clients peace of mind knowing that their yacht will be handled with the utmost care and handled by the industry's most qualified people. It is our commitment to an ever-developing fleet and our systems designed to provide the best overall experience for our clients throughout the entire shipping process.

**Destinations.**

United Yacht Transport's sailing fleet serves over 100 ports including the Mediterranean, Caribbean, Mexico, the Northwest, South Florida, and most any major yachting destinations. Whether it is world class sailing or simply the superior beauty of our West Coast, United Yacht Transport's fleet is ready to serve your needs. With United Yacht Transport, you can enjoy all that the water has to offer from your yacht.



**United Yacht Transport Inc.**  
 10000 10th Avenue, Suite 100  
 San Diego, CA 92121  
 (619) 444-1111  
[www.uyt.com](http://www.uyt.com)



**United Yacht Transport Inc.**  
 10000 10th Avenue, Suite 100  
 San Diego, CA 92121  
 (619) 444-1111  
[www.uyt.com](http://www.uyt.com)



**Recent Projects.**

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Tampa, Florida 33601-3913

## BUSH ROSS

**IRS Circular 230 Notice:** To ensure compliance with requirements imposed by the IRS, we inform you that, unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any tax-related matter addressed herein.

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**From:** Tang, John [<mailto:John.Tang@strasburger.com>]  
**Sent:** Friday, September 13, 2013 4:17 PM  
**To:** Joseph A. Probasco; Randy Sterns; Alexander Zimmer  
**Cc:** Brockway, Michelle  
**Subject:** RE: United Yacht Transport LLC/Dockwise Shipping BV

Joseph, I have discussed your email with our client. Our comments to your statements can be found below (embedded in your text in bracketed red bold lettering). In addition, attached are various snap shots of the Port Everglades online ship directory listing since 2009 (using the Wayback Machine). Last, since the photograph (attached to our notice letter) was unconvincing to your clients, a United Yacht Transport vessel will be making its scheduled voyage to the port in Fort Lauderdale (i.e., Port Everglades) on or near September 17. Since your client's listed place of business is in Fort Lauderdale, your client can see up close our client's trademark next week.

We look forward to your clients' immediate response.

---

**John A. Tang** • Strasburger & Price, LLP  
909 Fannin Street, Suite 2300, Houston, TX 77010  
Direct: 713.951.5623 • Main: 713.951.5600  
Fax: 832.397.3532 • Mobile: 832.567.8264  
Skype: JohnTangAttorney  
**Legal Administrative Assistant:** Kathy Reiff 713.750.5507 ([Kathy.Reiff@strasburger.com](mailto:Kathy.Reiff@strasburger.com))  
**IP Paralegal:** Teresa Wrye 713.750.5510 ([Teresa.Wrye@strasburger.com](mailto:Teresa.Wrye@strasburger.com))

Member of the State Bars of Texas and Florida  
Registered to practice before the U.S. Patent and Trademark Office

**From:** Joseph A. Probasco [<mailto:jprobasco@bushross.com>]  
**Sent:** Tuesday, September 10, 2013 3:48 PM  
**To:** Tang, John; Alexander Zimmer; Randy Sterns  
**Cc:** Brockway, Michelle  
**Subject:** RE: United Yacht Transport LLC/Dockwise Shipping BV

John-

Thank you for your email and we enjoyed speaking with you as well.

As noted on our call, prior to using the mark "United Yacht Transport," our client conducted a search to determine whether any other business, including Dockwise, was using a similar or identical mark in the yacht shipping industry. Based on this search, our client concluded that Dockwise had abandoned the mark sometime in 2007 **[We would be interested to**

**see how your client came to this conclusion. The mere cancellation of a registered stylized mark?**, as our client's investigation found no evidence of Dockwise's use of the mark in interstate commerce **[Our client's use of its mark is between the U.S. and other countries, so such use qualifies as use in "commerce regulated by U.S. Congress" and not interstate commerce]**, nor any reference of the mark on any Dockwise website, nor any other reference of the mark in any other industry promotional medium, including tradeshows, trade journals, etc. Further, our client's search found that the USPTO cancelled your client's federally registered mark "United Yacht Transport" (Reg. No. 2405244) in August 2007. **[I believe your statement is in error. The mark registered was a stylized mark, including the acronym UYT. Thus, our client did not maintain this stylized mark. But our client has not abandoned its word mark.]** We further note that Dockwise did not take any affirmative action to file for registration of the mark until after our client filed its application on August 7, 2013. **[As you know, trademark rights in the U.S. are not based on a registration, but rather rights are obtained through use (i.e., common law rights). To protect our client's rights in a subsequent opposition proceeding against your client's application, our client filed its application. Our client has been continuously using the word mark United Yacht Transport mark since at least as early as 1992. Furthermore, please direct me to statutory or case law that trademark owners have an affirmative duty to register its mark in the U.S.]** Based on our client's search, our client adopted the mark in good faith **[We find it hard to believe that the adoption was in good faith in view of the Cummings interaction with your clients - after the Cummings' unsuccessful bid to acquire our client's yacht transport business]** believing Dockwise had abandoned the mark in 2007 **[Based on what? A cancelled registration for a stylized mark?]** and had no intention **[What proof is your client relying on that our client had "no intent" to use its mark? Our client has not abandoned its mark. This can be clearly shown by the Port Everglades' directory listings and nearly 700 foot United Yacht Transport vessels, that regularly loads and unload yachts from Port Everglades]** to resume its use of the mark.

You indicated that even if Dockwise was deemed to have abandoned the mark "United Yacht Transport" in 2007 **[Let's be absolutely clear, our client has not abandoned its trademark]**, Dockwise's recent use still predated our client's first use in 2013. However, to date, we have only been provided with an undated photograph of a ship with "United Yacht Transport" painted on the side **[As noted above, kindly go to the port next week for an up close view]**, and a print-out from the Port Everglade's directory dated August 20, 2013 **[See attached earlier listings from 2009 and on using the Wayback Machine. Such limited listings were the result of the retrieval tool, rather than lack of uses prior to 2009. Further trademark uses identifying our client can be found with a simple internet search.]** . As you know, use of the mark must amount to more than just "token use" and must constitute a bona fide use of the mark in the ordinary course of trade and not merely to reserve a right in the mark **[We would find it hard for a jury to believe that uses of the mark on 700 foot (over 2 football fields long) transport vessels and listings would amount to token use of the mark]**. As such, we have requested additional information from your client to substantiate Dockwise's claim of its prior use. We are particularly interested in any information that would substantiate that Dockwise has "extensively promoted and advertised its services under the Mark" as set forth in your correspondence of August 20, 2013, as well as any information that supports Dockwise has booked sales under this mark **[This is irrelevant. As you know, sales bookings do not amount to trademark use]**. However, we understand from your correspondence below that Dockwise is not willing to provide any additional support for its claims at this time. We would appreciate your client's reconsideration of its position and respectfully request that it provide additional support to substantiate its priority rights in the mark.

If, after review of these materials, we conclude your client has superior rights to use this mark, we would be happy to discuss an amicable resolution to this dispute.

Finally, contrary to the statement contained in your August 20, 2013 letter, no principal of United Yacht Transport, LLC was involved in any attempted acquisition of the Dockwise's yacht transport business. **[We thank you for the clarification that the Cummings are not "principals" of your client UYT, LLC. We note that your clients made a "big deal" about their association with UHY, LLC by the publication we provided.]**

**Should your clients not cease use of the mark as specified in the notice letter, our client intends to take all necessary steps to protect its mark, including but not limited to, claims of willful infringement (including attorney fees under the Lanham Act).]**

We looking forward to hearing from you.

Regards,

Joseph A. Probasco, Esq.  
Bush Ross, P.A.



## DYT Shipping Destinations: Global Yacht Transport Destinations

DYT services a wide variety of beautiful, exotic and thoroughly enjoyable yacht shipping destinations around the world. Our yacht transport expertise quite literally spans the seven seas. From Australia and the South Pacific to the Mediterranean, and the East Coast of the United States, we ship vessels of any size to some of the most beautiful harbors and waters in the world. Our expansive selection of global yacht transport destinations ensures that our customers can enjoy some of the world's most desirable cruising grounds around the globe.

In addition, our yacht shipping services are covered by yacht shipping insurance so our clients can rest easy knowing that their boat or yacht is in good hands and is covered financially. Please click on any of the yacht shipping destinations shown on the map above to learn more about the location and the yacht transport services that will get you there.

## SAILING SCHEDULES

Departure

Destination

Perform search

### Latest News

DYT Yacht Transport Lends Helping Hand to Dismasted Yacht in Transat AG2R La Mondiale

### Contact

#### DYT Yacht Transport

DYT Yacht Transport  
1535 S.E. 17th St, Suite 200  
Ft. Lauderdale, Florida 33316  
USA

Tel.: + 1 954 525 8707

Toll Free: 1 888 SHIP DYT (744)

## EXHIBIT 7

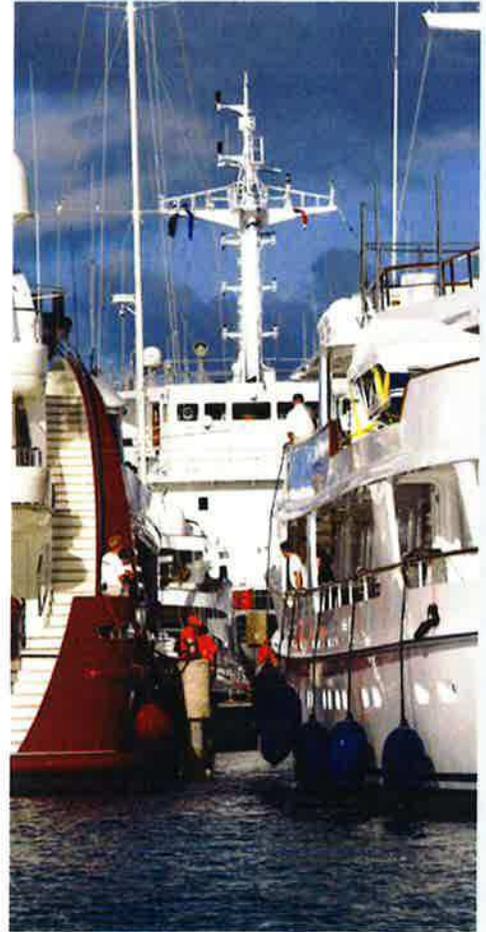
7398)

Fax: + 1 954 525 8711

E-mail: [dyt.usa@yacht-transport.com](mailto:dyt.usa@yacht-transport.com)

Twitter: [@dytusa](https://twitter.com/dytusa)

Facebook: [DYT](https://www.facebook.com/DYT)



**ABOUT US**

- Welcome Aboard
- Meet our Team
- Vision & Mission
- Float-on float-off Service
- Yacht Carriers
  - Yacht Express
  - Super Servant 4
- Testimonials
- Job Openings
- SeaKeepers Society

**INFORMATION**

- FAQ
- How Does it Work
- Reservations
- Voyage Insurance
- Boarding Guidelines
- Ports and Customs
- Terms & Conditions
- Boat Transport Tips for Riders
- How to Prepare Your Boat for Transport

**DESTINATIONS**

- East Coast USA
- Caribbean
- Mediterranean
- Pacific West Coast
- South Pacific
- New Zealand Millennium Cup
- Winter Boat Transport
- Destinations
- Tahiti is calling your name!

**SCHEDULES**

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- Events
- Video Gallery
- Photo Gallery
- Magazine articles
- Social Wall

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- [Boat Shows](#)

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## Destinations

### Port Everglades, Florida



Yacht transport with United Yacht Transport out of Port Everglades is the yachting destination frequently known as the "powerhouse port" in South Florida. As one of the most distinct seaports in the United States, Fort Lauderdale's yacht shipping port is among the most active ports in the country. Located at the epicenter of the Greater Fort Lauderdale and the city of Hollywood, Florida,

[Read More...](#)

### Port of Ensenada, Mexico

The port of Ensenada is located in Ensenada, Baja California and is the second busiest port as well as the second most

**EXHIBIT 8**



visited port-of-call for cruise lines and yacht transportation visits in Mexico. The city of Ensenada is a coastal city of Mexico, and is the third largest in Baja California. Residing just 78 miles south of San Diego, the city of Ensenada is commonly referred as "The Cinderella of the Pacific."

[Read More...](#)

## Port of Mazatlan, Mexico



Mazatlan, meaning 'place of deer' in the Nahuatl language, was a sleepy fishing village until the early 19th century, when it began its transformation into a bustling port receiving vessels from as far away as Asia and Europe. The city hosts major beach resorts and has the second largest fishing fleet in Mexico. Most of the seafood processed in the city is shrimp and tuna.

[Read More...](#)

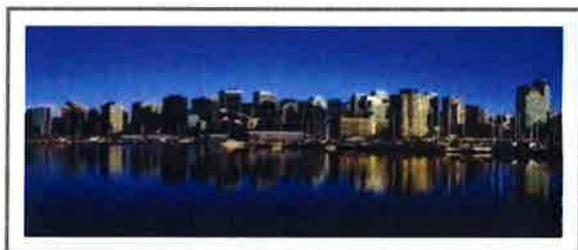
## Port of La Paz, Mexico



La Paz is an emerging luxury travel destination. Set near the southern tip of Baja California Sur, La Paz is 140 miles north of the tourism mecca of Los Cabos. La Paz, meaning "The Peace." is aiming to become a magnet for luxury travel and second homes without losing its tranquil, indigenous charms. This coastal gem offers warm Mexican hospitality amidst sugar-sand beaches, azure waters, and alluring wildlife.

[Read More...](#)

## Port of Vancouver, Canada



Yacht transport with United Yacht Transport provides vessel shipping services to the Port of Vancouver, Canada. United Yacht Transport is a premiere yacht transportation provider for clients seeking a reliable company to move their vessels around the world in secure manner. United Yacht Transportation has been transporting yachts to the Port of Vancouver for over 10 years, as it is consistently marked as

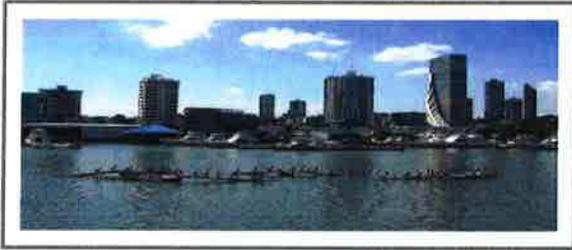
a superior city. Clients love the coastal seaport, numerous attractions and the numerous links to other

### **EXHIBIT 8**

cities.

[Read More...](#)

## Port of Cristobal, Panama



Yacht transport with United Yacht Transport is the leader in vessel transport shipping services. Cristóbal is a port on the Atlantic side of the Panama Canal. It is located on the western edge of Manzanillo Island and is part of the Panamanian city and province of Colón. There are several theories about the origin of the name "Panama". Some believe that the country was named after a commonly found

species of trees. Others believe that the first settlers arrived in Panama in August, when butterflies abound, and that the name means "many butterflies" in an indigenous language.

[Read More...](#)

## Port of Golfito, Costa Rica

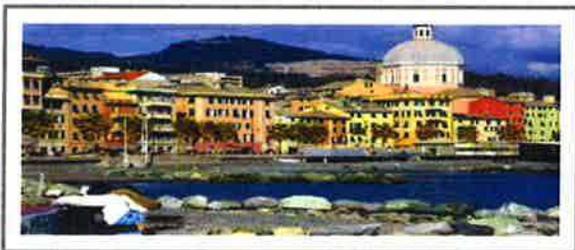


Yacht transport with United Yacht Transportation features a secure vessel shipping service line to the Port of Golfito, Costa Rica. Golfito is located in the Puntarenas Province on the southern Pacific Coast of Costa Rica, near the border of Panama. Golfito is located along a narrow strip of land between a bay and a shopping & residential area to the south. Golfito is Costa Rica's only city situated within a

declared protection area. Originally a banana port during the 1950's, Golfito now relies on duty-free shopping and tourism as its economic strength.

[Read More...](#)

## Port of Genoa, Italy



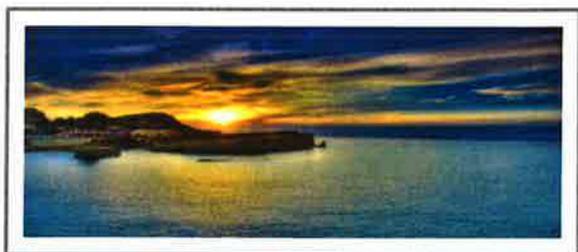
Yacht transport with United Yacht Transport provides vessel shipping to the Port of Genoa, an important and large Italian seaport on the Mediterranean Sea. The port of Genoa is the busiest port in Italy by cargo and the second busiest in terms of processing shipping containers over twenty feet. The port of Genoa stretches 22 miles and has increased traffic because of its focal point between other destinations.

More than 150 line services link Genoa to major ports throughout the world.

[Read More...](#)

## **EXHIBIT 8**

## Port of Lavrio, Greece



Yacht transport with United Yacht Transport offers a secure vessel transport service for clients seeking to move their vessels to the Port of Lavrio, Greece. The city of Lavrio is located in southeastern part of Attica, Greece. Lavrio is among the most beautiful of the three ports in Greece. Creating an intimated experience making visitors feel as if it's a Greek island all its own.

[Read More...](#)

## Port of Hong Kong, China



United Yacht Transport provides secure yacht transport movement of client vessels as they seek to ship their yacht to the Port of Hong Kong, China. Hong Kong, located on China's south cost and enclosed by the Pearl River Delta and South China Sea, is one of the two Special Administrative Regions of the People's Republic of China. Hong Kong is one of the most densely populated regions of the world, with a

population of over seven million.

[Read More...](#)

## Port of Singapore, Singapore



Yacht transport with United Yacht Transport offers a secure vessel transport service for clients seeking to move their vessels to Singapore. The Republic of Singapore, is a sovereign city-state and island country in Southeast Asia. Singapore is one of the world's major commercial hubs, with the fourth-biggest financial centre and one of the five busiest ports. Its globalised and diversified economy

depends heavily on trade, especially manufacturing, which represented 26 percent of Singapore's GDP in 2005.

[Read More...](#)

## Port of Yokohama, Japan



Yacht transport to Japan – with United Yacht Transport is a secure way of movement of your vessel to the Port of Yokohama, Japan. Yokohama is a shining example of Japan's trading culture and the unique collection of the town creates

**EXHIBIT 8**



a warm and inviting atmosphere. Beyond the charming town is the exciting movement of Japanese culture with shopping and entertainment centers all around.

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[Download our 2014-2015 Yacht Transport](#)

©

**EXHIBIT 8**

# Federal Maritime Commission

Washington, D.C. 20573-0001

## OCEAN TRANSPORTATION INTERMEDIARY LICENSE OCEAN FREIGHT FORWARDER AND NON-VESSEL-OPERATING COMMON CARRIER

NO. 025897NF

THIS IS TO CERTIFY THAT

**UNITED YACHT TRANSPORT LLC**

is the holder of an Ocean Transportation Intermediary License and, as such, is duly authorized to carry on the business of providing freight forwarder services to facilitate shipment via an oceangoing common carrier from the United States and its territories or possessions to foreign countries and non-vessel-operating common carrier services for the provision of transportation by water via common carriers between the United States, its territories or possessions, and foreign countries.

This license is conferred pursuant to the authority contained in Section 19 of the Shipping Act of 1984 and is subject to the provisions of said Act, Part 515 of Title 46 of the Code of Federal Regulations as it is or may be amended, and the pertinent provisions of other applicable regulations promulgated under the foregoing Act.

By authority of the Federal Maritime Commission



Director

Bureau of Certification and Licensing

Effective: **February 8, 2016**



**FEDERAL MARITIME COMMISSION  
BUREAU OF ENFORCEMENT  
800 North Capitol Street, N.W.  
Washington, D.C. 20573-0001**

**WARNING LETTER**

March 29, 2016

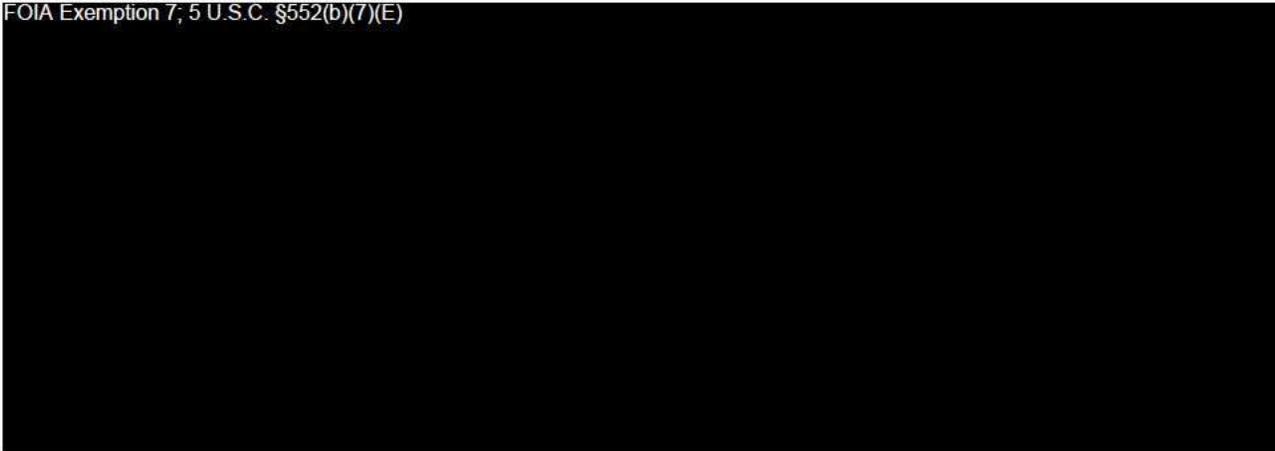
Paul Haber  
President  
United Yacht Transport LLC  
2830 Marina Mile Blvd., Suite 118  
Ft. Lauderdale, FL 33312

Re: Violations of the Shipping Act of 1984

Dear Mr. Haber:

As you know, a review was conducted by the Commission's South Florida Area Representatives Margolis and Mintz into the operations of United Yacht Transport LLC (UYT) with respect to shipments of yachts in the United States foreign commerce during 2014 - 2015.

FOIA Exemption 7; 5 U.S.C. §552(b)(7)(E)



Based on records and information provided to the Bureau of Enforcement, it appears that the following violation of the Shipping Act of 1984, 46 U.S.C. § 40101, *et seq.*, could be found with respect to shipments transported in 2014 and 2015:

United Yacht Transport LLC acted as an ocean transportation intermediary in the United States without a license, bond, or tariff in apparent violation of sections 8 and 19 of the Shipping Act, 46 U.S.C. §§ 40501, 40901, and 40902.

The Shipping Act of 1984 prescribes that violations of the statute are punishable by the

assessment of a civil penalty not to exceed \$9,000 for each violation, unless the violation was willfully and knowingly committed, in which case the penalty may not exceed \$45,000 for each violation. See section 13(a), 46 U.S.C. § 41107.

The Bureau of Enforcement does not presently intend to seek enforcement action against UYT for the violations described herein. We have confirmed with the Commission's Bureau of Certification and Licensing that UYT promptly applied for and obtained a license, filed evidence of financial responsibility, and published its tariff. Consequently, you have fulfilled your commitments to obtain an OTI license, file evidence of financial responsibility, and publish a tariff.

FOIA Exemption 7; 5 U.S.C. §552(b)(7)(E)

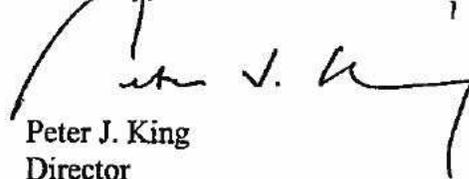
FOIA Exemption 7; 5 U.S.C. §552(b)(7)  
(E)

This determination does not preclude any future review of your operations under the requirements of the Shipping Act.

To avoid future enforcement action by the Commission, you should implement procedures within your company to ensure that all applicable requirements of the Shipping Act and Commission regulations are observed and met. You may also wish to have your legal counsel undertake a thorough review of your operations to ensure that UYT is operating in full compliance with the requirements of the Shipping Act and with the Commission's regulations.

If you have any questions, please contact the undersigned or my Deputy, Brian L. Troiano, at (202) 523-5783.

Sincerely,



Peter J. King  
Director  
Bureau of Enforcement

cc: FMC South Florida Area Representatives

Gail T. Ryan  
Vice President  
United Yacht Transport LLC

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