

BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 23-05

RAHAL INTERNATIONAL, INC.,
Complainant,

v.

HAPAG-LLOYD (AG), HAPAG-LLOYD (AMERICA) LLC, AND
HAPAG-LLOYD USA, LLC,
Respondent.

VERIFIED ANSWER

Respondent Hapag-Lloyd USA, LLC (“HLUSA”) hereby answers the Complaint of Complainant Rahal International, Inc. (“Rahal”).

1. Paragraph 1 states a legal conclusion to which no response is required. To the extent a response is required, HLUSA denies the allegations in Paragraph 1 as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to Hapag-Lloyd AG (“HLAG”) and Hapag-Lloyd (America) (“HLA”).

I. COMPLAINANT

2. HLUSA lacks sufficient information to admit or deny the information in Paragraph 2.

II. RESPONDENTS

3. Paragraph 3 contains no factual allegations with respect to HLUSA and thus requires no response.

4. Paragraph 4 contains no factual allegations with respect to HLUSA and thus requires no response.
5. Paragraph 5 contains no factual allegations with respect to HLUSA and thus requires no response.
6. Paragraph 6 contains no factual allegations with respect to HLUSA and thus requires no response.
7. Paragraph 7 contains no factual allegations with respect to HLUSA and thus requires no response.
8. Paragraph 8 contains no factual allegations with respect to HLUSA and thus requires no response.
9. Paragraph 9 contains no factual allegations with respect to HLUSA and thus requires no response.
10. Paragraph 10 contains no factual allegations with respect to HLUSA and thus requires no response.
11. Paragraph 11 contains no factual allegations with respect to HLUSA and thus requires no response.
12. Paragraph 12 contains no factual allegations with respect to HLUSA and thus requires no response.
13. Admitted.

14. Denied.

15. Admit that HLUSA is subject to regulation by the Federal Maritime Commission, but deny it is an agent of HLAG.

16. Admitted.

17. Admitted.

18. Denied.

19. Denied.

20. Denied as to the allegation that HLUSA agreed or contracted with, or otherwise engaged, on behalf of Hapag-Lloyd AG, one or more marine terminal operators to provide terminal facilities for property transported to the Port of New York and New Jersey. HLUSA lacks sufficient information to admit or deny whether such terminal operators are agents of HLAG.

III. JURISDICTION & LEGAL AUTHORITY

21. Paragraph 21 contains no factual allegations with respect to HLUSA and thus requires no response.

22. Admitted, except to the extent otherwise set forth in Affirmative Defense #5 below.

23. Paragraph 23 contains no factual allegations with respect to HLUSA and thus requires no response.

24. Admitted.

25. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to HLA.
26. Paragraph 26 states a legal conclusion to which no response is required. To the extent a response is required, HLUSA denies the allegations in paragraph 26. HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.
27. Paragraph 27 states a legal conclusion to which no response is required. To the extent a response is required, denied as to the allegations against HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.
28. Paragraph 28 states a legal conclusion to which no response is required. To the extent a response is required, denied as to the allegations against HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.
29. Paragraph 29 states a legal conclusion to which no response is required. To the extent a response is required, denied as to the allegations against HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.
30. Paragraph 30 states a legal conclusion to which no response is required. To the extent a response is required, denied as to the allegations against HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.
31. Paragraph 31 states a legal conclusion to which no response is required. To the extent a response is required, denied as to the allegations against HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

IV. (A) FACTUAL STATEMENT

32. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 32 as to HLAG and HLA.
33. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 33 as to HLAG and HLA.
34. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 34 as to HLAG and HLA.
35. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 35 as to HLAG and HLA.
36. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 36 as to HLAG and HLA.
37. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 37 as to HLAG and HLA.
38. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 38 as to HLAG and HLA.
39. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 39 as to HLAG and HLA.
40. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 40 as to HLAG and HLA.

41. Paragraph 41 contains no factual allegations with respect to HLUSA and thus does not require a response. To the extent that a response is required, HLUSA lacks sufficient information to admit or deny the allegations in paragraph 41.
42. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 42 as to HLAG and HLA.
43. Paragraph 43 contains no factual allegations with respect to HLUSA. To the extent it requires an answer, HLUSA lacks sufficient information to admit or deny the information in paragraph 43.
44. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 44 as to HLAG and HLA.
45. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 45 as to HLAG and HLA.
46. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 46 as to HLAG and HLA.
47. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 47 as to HLAG and HLA.
48. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 48 as to HLAG and HLA.
49. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 49 as to HLAG and HLA.

50. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 50 as to HLAG and HLA.
51. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 51 as to HLAG and HLA.
52. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 52 as to HLAG and HLA.
53. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 53.
54. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 54.
55. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 55 as to HLAG and HLA.
56. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 56 as to HLAG and HLA.
57. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 57 as to HLAG and HLA.
58. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 58 as to HLAG and HLA.
59. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 59.
60. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 60.
61. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 61.

62. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 62.
63. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 63 as to HLAG and HLA.
64. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA. HLUSA lacks sufficient information to admit or deny the content of Exhibit 1, as the Exhibit was not included in the version of the Complaint served on HLUSA.
65. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 65 as to HLAG and HLA.
66. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 66 as to HLAG and HLA.
67. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 67 as to HLAG and HLA.
68. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 68 as to HLAG and HLA.
69. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 69. To the extent that an answer is required, HLUSA denies the allegations in paragraph 69 as to HLUSA.
70. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 70 as to HLAG and HLA.

71. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations in paragraph 71 as to HLAG and HLA.
72. Paragraph 72 contains no factual allegations with respect to HLUSA and thus does not require a response. To the extent that a response is required, HLUSA lacks sufficient information to admit or deny the allegations in paragraph 72.
73. Paragraph 73 contains no factual allegations with respect to HLUSA and thus does not require a response. To the extent that a response is required, HLUSA lacks sufficient information to admit or deny the allegations in paragraph 73.
74. Paragraph 74 contains no factual allegations with respect to HLUSA and thus does not require a response. To the extent that a response is required, HLUSA lacks sufficient information to admit or deny the allegations in paragraph 74.
75. Paragraph 75 contains no factual allegations with respect to HLUSA and thus does not require a response. To the extent that a response is required, HLUSA lacks sufficient information to admit or deny the allegations in paragraph 75.

IV(B). VIOLATIONS OF THE SHIPPING ACT

76. Paragraph 76 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 76 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

77. Paragraph 77 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 77 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

78. Paragraph 78 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 78 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

79. Paragraph 79 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 79 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

80. Paragraph 80 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 80 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

81. Paragraph 81 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 81 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

82. Paragraph 76 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 82 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

83. Denied as to HLUSA. HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

V. CAUSATION

84. Paragraph 84 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 84 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

VI. DAMAGES

85. Paragraph 85 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 85 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

86. Paragraph 86 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 86 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

87. Paragraph 87 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 87 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

88. Paragraph 88 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 88 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

89. Paragraph 89 states a legal conclusion to which no response is required. To the extent that a response is required, HLUSA denies the allegations in paragraph 89 as to HLUSA, and HLUSA lacks sufficient information to admit or deny the allegations as to HLAG and HLA.

VII. AFFIRMATIVE DEFENSE

1. The Complaint fails to state a claim upon which relief may be granted in that the conduct which is subject to the complaint was not performed by HLUSA.

VIII. PRAYER FOR RELIEF

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed with prejudice.



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VERIFICATION

VERIFICATION OF RESPONDENT HAPAG-LLOYD USA, LLC

David P. Zimmermann, hereby verifies as follows:

1. I am the President and CEO of Hapag-Lloyd USA, LLC
2. I am authorized to make this verification on behalf of Hapag-Lloyd USA, LLC.
3. I hereby verify that the facts contained in the foregoing answer and affirmative defenses are true and correct to the best of my knowledge, information, and belief.
4. I verify the foregoing under penalty of perjury under the laws of the United States.

Dated: August 1, 2023

A handwritten signature in black ink, appearing to read "D. P. Zimmermann", written over a horizontal line.

Name: David P. Zimmermann

Title: President and CEO, Hapag-Lloyd USA, LLC

CERTIFICATE OF SERVICE

I certify that, on August 1, 2023, a true and current copy of the foregoing Answer was filed via electronic mail with the Secretary of the Federal Maritime Commission, and a copy was served via electronic mail on the following counsel:

William M. Fennell, Esq. (WFennell@GMPLawfirm.com)

Counsel for Rahal International, Inc.

/s/ Wayne Rohde

Wayne Rohde

Dated: August 1, 2023