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July 1, 2025
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June 27, 2025
Office of the Secretary
Federal Maritime Commission

Before the

FEDERAL MARITIME COMMISSION

Washington, D.C. 20573

Docket No. 25-12

DOLLAR GENERAL LOGISTICS, LLC

v.

YANG MING MARINE TRANSPORT CORP.

VERIFIED COMPLAINT

I. INTRODUCTION

1. Complainant Dollar General Logistics, LLC ("Dollar General" or "Complainant"), by its undersigned counsel, brings this Verified Complaint (the "Complaint") against Respondent Yang Ming Marine Transport Corp. ("Respondent" or "Yang Ming") pursuant to 46 U.S.C. Section 41301 to seek reparations for injuries to Complainant caused by Respondent's violations of the Shipping Act of 1984, as amended, 46 U.S.C. Sections 40101 *et seq*. (the "Shipping Act"), alleged herein.

2. Yang Ming is a leading global ocean container shipping company. Based on capacity, Yang Ming is currently the tenth-largest vessel-operating ocean common carrier in the world. According to Yang Ming's public statements, as of May 2025, it operates a fleet of 100 vessels with an 8.223 million deadweight tonnage capacity and an operating capacity of 724,000 twenty-foot equivalent units ("TEUs").

3. In addition to its own dedicated carrying capacity, Yang Ming also coordinates its activities with other major shipping lines. Until early 2025, Yang Ming was part of the "THE

Alliance" with fellow vessel-operating ocean common carriers Ocean Network Express Pte. Ltd. (the sixth largest), Hapag Lloyd AG (the fifth largest), and HMM Company Limited (the eighth largest). The THE Alliance was the second-largest global shipping alliance in the world, with a combined deployed capacity of 3.03 million TEUs, representing 12% of global ocean shipping capacity. As of February 2025, Yang Ming has formed a new alliance with Ocean Network Express Pte. Ltd. and HMM Company Limited called the "Premier Alliance" for another five years.

4. Upon information and belief, Yang Ming has profited greatly from the conduct alleged herein. In its 2021 Annual Report, Yang Ming stated that "the overall results in 2021 were better than expected" and it was "[b]lessed with the extraordinary performance in 2021." For the year 2021, Yang Ming reaped a net income of NT$165.602 billion [equivalent to US$5.39 billion], ***an increase of 1,258.86 percent*** from NT$12.187 billion [equivalent to US$397 million] from 2020, which itself was an increase of ***400 percent*** from its 2019 results.[1] Yang Ming's 2021 net income to revenue margin percentage of 49.6% was extraordinary not only in an absolute sense but also in a relative sense, as it exceeded the overall industry's net income to revenue margin percentage by 12.8 percentage points.

5. Respondent's profitability has come at the direct expense of businesses and consumers in the United States. During the COVID-19 pandemic, many companies, similar to Complainant, endured unprecedented increases in freight costs.

6. Profiteering by container lines injures not only shippers but the entire consumer public, in the form of inflation. Inflation in the United States rose to crisis levels and led to extreme fiscal tightening in the form of increased interest rates, while global ocean carriers, including Yang Ming, reported windfall profits. Indeed, the International Monetary Fund released an Analytical

[1] Except where otherwise noted, all bold and italicized text reflects added emphasis.

Series report on January 24, 2023 indicating that "[t]he 2021 surge in global shipping costs was a canary in the coal mine for the persistent rise in inflation" and that "[g]iven the actual increase in global shipping costs during 2021, we estimate that the impact on inflation in 2022 was more than 2 percentage points—a huge effect that few central banks would dismiss."

7. As alleged herein, Yang Ming has engaged in a practice of systematically failing to meet its service commitments to Complainant and, upon information and belief, other shippers. Relevant here, Complainant entered into a service contract (the "Service Contract") with Yang Ming for the period of May 1, 2021 through April 30, 2022 (the "2021 Shipping Year"). The Service Contract specified a minimum quantity commitment ("MQC") of cargo to be shipped and a corresponding service commitment by Yang Ming to provide vessel space sufficient to carry that MQC. Upon information and belief, instead of honoring its service commitment to Complainant under the Service Contract, Yang Ming systematically failed to meet that service commitment and allocated Complainant's bargained-for space to higher-priced cargo from other shippers to maximize Yang Ming's own profits. As a result, Complainant was forced to obtain space on the spot market at enormous expense during a period of unprecedented high spot market prices.

8. Yang Ming was not alone in breaching its service commitments since the onset of the COVID-19 pandemic, and Complainant is not the only shipper to have suffered from such misconduct. In *MCS Industries, Inc. v. MSC Mediterranean Shipping Company SA*, FMC Docket No. 21-05, the FMC's Chief Administrative Law Judge found that the Shipping Act violations alleged in that case, which parallel Yang Ming's practice of failing to meet its service commitment to Complainant as alleged herein, "are of national significance, for example, that one of the largest container lines in the world 'sought to take advantage of unprecedented high pricing by forcing shippers with service contracts, like Complainant, to resort to spot market purchases' by the

‘practice of systematically failing to meet its quantity commitments . . . .’” When MSC chose to suffer a decision on default against it rather than comply with its discovery obligations in that case, the Chief Administrative Law Judge found that “[r]esolution of these allegations would provide clarity and guidance in the marketplace and benefit not just these parties, but also the shipping public.” The decision on default against MSC in that case was subsequently affirmed by the Commissioners of the FMC in a unanimous 5-0 decision, finding that “the ALJ had properly determined that the FMC has jurisdiction over MCS’s claims and that those claims were adequately stated.”

9. Yang Ming’s conduct alleged herein with respect to the receipt, handling, storage, and/or delivery of the property of Complainant and, upon information and belief, of other shippers, occurred on a normal and customary basis.

10. Accordingly, pursuant to 46 U.S.C. Section 41301, Complainant brings this Complaint seeking reparations for injuries caused by Yang Ming’s violations of the Shipping Act, as alleged herein.

II. THE COMPLAINANT

11. Complainant Dollar General Logistics, LLC is a corporation existing under the laws of Tennessee with its principal place of business located at 100 Mission Ridge Dr., Goodlettsville, Tennessee 37072, telephone 615-855-4000, and reachable via its undersigned counsel’s telephone numbers and email addresses listed below. For purposes of the allegations of this Complaint, Complainant was a “shipper” as that term is defined by 46 U.S.C. Section 40102(23).

III. THE RESPONDENT

12. Upon information and belief, Respondent Yang Ming Marine Transport Corp. is a company existing under the laws of Taiwan with its principal place of business located at No. 271,

Ming De 1st Road, Cidu District, Keelung 20646, Taiwan, acting in the United States by and through its agent, Yang Ming (America) Corp., a company existing under the laws of the State of New York with its principal place of business located at One Newark Center, 1085 Raymond Blvd., 9th Floor, Newark, NJ 07102. Respondent Yang Ming Marine Transport Corp. is an "ocean common carrier" as that term is defined by 46 U.S.C. Section 40102(18) with FMC organization number 000138.

13. Upon information and belief, Respondent Yang Ming Marine Transport Corp. and its agent Yang Ming (America) Corp. acted jointly in the conduct alleged herein with respect to Complainant and, upon information and belief, other shippers, and therefore are referred to herein collectively as "Yang Ming."

IV. JURISDICTION AND LEGAL AUTHORITY

14. The FMC has subject-matter jurisdiction over this Complaint pursuant to the Shipping Act and, in particular, 46 U.S.C. Sections 41301 through 41309.

15. The FMC has personal jurisdiction over Respondent Yang Ming Marine Transport Corp. as an "ocean common carrier", as that term is defined by 46 U.S.C. Section 40102(18), that has entered into a "service contract", as that term is defined by 46 U.S.C. Section 40102(21), with Complainant.

16. By definition, Yang Ming's Service Contract with Complainant required Yang Ming to "commit[] to a certain rate or rate schedule ***and a defined service level, such as assured space***, transit time, port rotation, or similar service features"[2], and in fact explicitly and specifically

[2] 46 U.S.C. § 40102(21) (emphasis added); *accord* 46 C.F.R. § 530.3(q); *see also* 46 U.S.C. § 40502(c)(7) (requiring service contracts to include "service commitments" as essential terms); 46 C.F.R. § 530.8(b)(5) (same); 46 C.F.R. § 530.8(c) (providing for the certainty of terms in service contracts by, *inter alia*, prohibiting such essential terms from being "uncertain, vague or ambiguous").

required Yang Ming to provide weekly space at a level ***not less than 130%*** in instances where Complainant provided forecasts four weeks from a scheduled shipping week.

17. Yang Ming's practice alleged herein of systematically failing to meet its service commitment constitutes a failure by Yang Ming to establish, observe, and enforce just and reasonable practices relating to receiving, handling, storing, and delivering the property of Complainant and, upon information and belief, other shippers, in violation of 46 U.S.C. Section 41102(c).

18. Yang Ming's practice of systematically failing to meet its service commitment also constitutes the provision of service in the liner trade that was not in accordance with the rules and practices contained in its Service Contract with Complainant, in violation of 46 U.S.C. Section 41104(a)(2).

19. Yang Ming's actions alleged herein further constitute unreasonable refusals to deal or negotiate with Complainant, in violation of 46 U.S.C. Section 41104(a)(10).

V. THE MATTERS COMPLAINED OF (ALLEGED FACTS)

<u>Yang Ming Systematically Failed to Meet Its Service Commitment to Complainant under the Service Contract</u>

20. Complainant and Yang Ming entered into the Service Contract, effective as of May 1, 2021, and covering the time period from May 1, 2021 through April 30, 2022. The Service Contract set its MQC and service commitment at 2,226 forty-foot equivalent container units ("FEUs"), corresponding to an average monthly allocation of 185.5 FEUs, and expressly required Yang Ming to provide weekly space at a level ***not less than 130%*** of the weekly prorated portion of that MQC when Complainant provided forecasts four weeks in advance of a scheduled shipping week.

21. Instead of honoring its service commitment, Yang Ming undertook a practice of systematically failing to make space available under the Service Contract, resulting in mounting shortages. All told, despite committing to provide 2,226 FEUs of space to Complainant during the Service Contract's term, Yang Ming provided only approximately 616 FEUs of space to Complainant—***73% less*** than committed.

22. As a result of the approximately 1,610-FEU shortfall, Complainant was forced to seek carriage from other sources at higher rates, or else forgo shipments entirely.

Yang Ming made service commitments despite knowing that it would not, in fact, satisfy those commitments.

23. Upon information and belief, Yang Ming's practice, which it maintained during the 2021 Shipping Year, in the midst of the COVID-19 pandemic and its associated disruptions, was to attempt to commit its ***entire*** anticipated shipping volume under service contracts, or even to enter into service contracts that ***exceeded*** its anticipated shipping volume, rather than reserve any space for possible issues that might arise during the shipping year that could impact its ability to meet its service commitments to all of its customers, including beneficial cargo owners ("BCOs") such as Complainant.

24. Upon information and belief, far from an honest mistake in over-promising space to customers, Yang Ming knew ***before the beginning of the 2021 Shipping Year*** that it had overcommitted space to its service contract customers and would not be able to satisfy the signed MQCs—yet it continued to finalize and execute contracts anyway. Indeed, in another case involving substantially identical claims against Yang Ming currently pending before the FMC, Dan Vidal, Yang Ming's Sales Director for the Northeast Region, testified that he had concerns about Yang Ming not being able to satisfy the service commitments it was making leading up to

the 2021 Shipping Year and that he discussed his concerns that there was "***no way we were going to be able to meet these MQCs***" with his team ***and with headquarters***.

25. Upon information and belief, Yang Ming therefore did not negotiate the 2021 Service Contract in good faith, but rather with the intent to induce Complainant, under false pretenses, to rely on Yang Ming to provide an agreed amount of fixed-price carriage that was critical to Complainant's business.

26. Upon information and belief, Yang Ming engaged in an unreasonable practice of seeking to enter into service contracts for 100% or more of its expected capacity during the 2021 Shipping Year, without reserving space for known, much less unforeseen, issues affecting the supply chain.

27. This alleged practice was unreasonable in that it virtually guaranteed that Yang Ming would fail to meet its service commitments, especially in light of ***known, existing, and ongoing*** industry issues caused by the COVID-19 pandemic.

28. Compounding the greed from its headquarters, Yang Ming was also frank with its customers—***after*** it had entered into service contracts with them—that it had not correctly calculated its available vessel capacity for the 2021 Shipping Year. This combination led Complainant, and, upon information and belief, Yang Ming's other BCO service contract customers, to seek alternative freight arrangements for cargo that could and should have been carried by Yang Ming pursuant to its service contracts.

29. Upon information and belief, Yang Ming employees repeatedly warned headquarters that they would not be able to satisfy the contracts Yang Ming was offering and agreeing to.

30. Shortly before the 2021 Shipping Year began, James Defilippis, Yang Ming's Regional Sales Manager for the Northeast Region, wrote to Sandy Hsu, a manager based in Yang Ming's headquarters: "I am seeing so many accounts having space issues already and being rejected… We are not near our signing goal and already having issues so I am not sure where those numbers came from."

31. Shortly thereafter, in April 2021, Yang Ming (America) Corp. Vice President of Sales Greg Krueger internally shared an analysis showing that Yang Ming was ***only accommodating 55% of the BCO volume that had already been signed for the then-upcoming 2021 Shipping Year***—almost guaranteeing that Yang Ming could not satisfy its service commitments without some drastic change. In his email, Krueger said, "We do understand all the circumstances surrounding the [blank sailings], port congestion and lack of equipment. That being said, there are several key accounts we must get your support in coordinating adequate space." Krueger went on to say, "We need to do a better job of securing space for YML BCO's. ***We understand the need to maximize revenue, but if we cannot do a better job the upcoming year is going to be a nightmare for us here***." Dan Vidal told headquarters his opinion that "there was ***no way*** we were going to be able to meet these MQCs."

32. Only a week into the 2021 Shipping Year, Yang Ming employee Joel Yero pleaded internally with Sandy Hsu not to sign an additional service contract for that year because he anticipated that "we will not provide space right f[ro]m the beginning ***like we are doing with the other accounts*** we are doomed to fail and I do not want my reputation tarnished on account of things I have no control over. ***This is an absolute disaster right now*** . . ."

33. A more detailed worksheet of actual versus budgeted volume would show that Krueger's 55% prediction, discussed above, was optimistic—Yang Ming's ***actual*** compliance with MQC commitments overall was approximately ***48%***.

Yang Ming ultimately failed to satisfy its service commitments to any BCO customer in the 2021 Shipping Year.

34. Upon information and belief, Yang Ming's service commitment failures were widespread and systematic, affecting Complainant and all other BCOs with service contracts.

35. Crucially, as outlined below, these massive shortfalls to BCOs were accompanied by overperformance for Yang Ming's non-vessel-operating common carrier ("NVOCC") customers—a situation in which Yang Ming was telling BCOs that there was no space but then selling the ***same space***, through an NVOCC, to the BCOs at much higher prices.

36. Yang Ming's failure to meet its service commitment under the Service Contract with Complainant began immediately after the Service Contract went into effect. Yang Ming substantially constrained the space it made available to Complainant and Complainant made clear its frustrations with Yang Ming failing to provide contracted space. For example, in an email dated May 12, 2021, Expeditors International of Washington, Inc. (Complainant's ocean freight booking logistics agent during the relevant time period) reached out to Yang Ming, saying:

> Hello Chris and Jim – EI Shenzhen following your booking guideline – provide 2 weeks forecast on 5/6 for space accommodation on vessel ETD 5/15 to 5/21. Unfortunately, no response even [when] we repeatedly chasing for feedback. We also tried to ***book on target sailing but all rejected***. May I have your coach? How can we secure the committed space for Dollar General shipments? We got nothing under new s/c and YML confirm no contract issue but no response of our booking request so far.

37. Complainant also made clear its frustrations with Yang Ming's failure to provide agreed space. In an email dated August 25, 2021, an employee of Complainant wrote to Yang Ming: "Are we seriously arguing over a 1% difference on a container rate when you guys have

cost me nearly $8M this contract year already by not fulfilling your run rate?" This message came in the context of a rate dispute and underscores the larger issue: Yang Ming's ongoing failure to meet its space and service obligations under the Service Contract.

38. Yang Ming admitted that "[p]ort congestion during the COVID-19 pandemic caused significant delays in [Yang Ming]'s operations, creating backlogs as vessels missed port calls and cargo had to wait for the next available vessel" and claimed that it was at fault for failing to provide space to Complainant.

39. In an email dated May 7, 2021, Yang Ming employee Jim Nickels noted to Complainant's employees:

> Most of our customers are advising of their backlogs in origin ports, with more large orders coming. Barring any quick and large drop in imports, this situation is going to last for some time. We are competing with other trade lanes for equipment and feeder space as, Intra Asia is booming, along with Asia-Europe, thereby tightening the supply.

Five days later, Yang Ming employee Jim Nickels also confirmed the situation:

> ***Yes, we are aware of the lack of bookings and have discussed with our HQ, who is again informing all origin offices of the importance in accepting the bookings, at least as much as possible***. I am sorry for the lack of communication from some of our origins and we will work to insure [sic] that it is corrected quickly.

40. Yang Ming's underperformance grew even more severe in subsequent weeks. For example, Complainant requested a total of 329 FEUs over a seven-week period covered by Complainant's forecasts (2021 calendar weeks 40 through 46), but Yang Ming delivered only 196—falling short by 133 FEUs ahead of the critical 2021 holiday season. In Week 48, Yang Ming delivered only 18 FEUs against a forecasted 78, resulting in a 60-FEU shortfall—failing to provide over three-quarters of the requested space. The following week, Yang Ming carried just 21 of the 89 forecasted FEUs, a staggering shortfall of ***over 76%***. These failures are even more extraordinary given that under the Service Contract Yang Ming was explicitly required to provide weekly space

at a level ***not less than 130%*** in instances where Complainant provided forecasts (as was the case here) four weeks from a scheduled shipping week.

41. Over the course of a 14-week forecasting period, in which Complainant provided Yang Ming shipping forecasts on a rolling basis during the period of August 25 to October 6, 2021, Yang Ming failed to meet Complainant's forecasted volumes in 11 out of 14 weeks. The cumulative shortfall across these weeks amounted to no less than 414 FEUs—a massive and sustained breach of Yang Ming's core service commitment under the Service Contract.

42. During the term of the Service Contract, representatives of Complainant and Yang Ming met regularly (often weekly) regarding Yang Ming's inadequate cargo space allocations to Complainant and the obstacles that Yang Ming was creating to Complainant receiving its cargo space, for which Yang Ming's representatives offered shifting explanations, initially claiming unavailability of space due to congestion and blank sailings, but later admitting that the lack of cargo space allocation was coming from Yang Ming's headquarters, and that although Yang Ming's U.S.-based representatives were also very frustrated with their leadership, their hands were tied. Complainant threatened to cut Yang Ming off from a contract for the following shipping year due to Yang Ming's cargo space shortfalls, which Yang Ming's U.S. representatives said they would pass along to Yang Ming's headquarters. But when representatives of Complainant and Yang Ming's leadership at headquarters communicated about Yang Ming's cargo space shortfalls, Yang Ming's leadership was non-committal.

43. At the beginning of 2022 (about 2/3 the way through the 2021 Shipping Year), Yang Ming internally created a report showing for 25 BCO customers: (1) their MQC, (2) a "target performance" goal for the point at which the chart was created, and (3) the actual performance. Only five of the listed customers had been provided with more than 20% of their MQCs, with the

rest of the chart reflecting Yang Ming's similarly dismal performance as to its other BCO customers.

44. Yang Ming's failures throughout the Service Contract year constituted a systematic practice of failing to fulfill its service commitments to Complainant and, upon information and belief, other BCO customers.

45. Yang Ming failed to meet its service commitments on fixed-price BCO service contracts with a large number of its customers, including Complainant. These issues were widespread enough at Yang Ming that employees regularly expressed outrage at the problems: "***The frustration being experienced by every single BCO is at an all time high. 1-2 FEUS being release in most cases is just not good enough. They signed contracts in good faith and expect a service to be provided.***"

46. In an illustrative example, in an email dated May 12, 2021, only two weeks into the 2021 Shipping Year, Yang Ming employee Dan Vidal sent an internal email to other Yang Ming employees stating: "[Bed Bath & Beyond ("BBBY")] is a new target account we just signed this year and as you can see from the[] below we are rejecting the[ir] booking request."

47. In an email dated May 17, 2021, an employee of fellow Yang Ming BCO customer BBBY expressed his deep frustration with Yang Ming's poor performance, writing "if you annualize the below (9 FEU's/wk x 52 wks/yr) it equates to 468 FEU's/yr. ***We just signed a contract w/ YM a couple of weeks ago for 1000 FEU's so at this point you're offering us less than half of what you promised?*** If so that's totally unacceptable and not the way I think you'd like to start your first ever direct contract w/ BBB[Y]!"

48. In another email with BBBY, Yang Ming employee Vidal admitted that: "I spoke to Taipei again and simply put we have grossly overestimated our vessels allocations." Later that

day, Vidal again conceded that the reduced allocation was Yang Ming's fault: "[t]o be totally transparent, we unfortunately ***miscalculated our vessel allocation and over committed to all of our current contract holders.***" However, although this would ultimately prove true with respect to Yang Ming's ***BCO*** customers, its more profitable ***NVOCC*** customers received significant preferential treatment during that same time period.

49. In early June 2021, Yang Ming employee Joel Yero was forced to relay to Yang Ming headquarters yet another palpably tense exchange with a customer: "To put it lightly he is beyond upset at the way we have handled their contract so far. ***This is yet another account complaining that we are not honoring their MQC by not providing any space*** . . . ."

50. Yang Ming's internal documents confirm this experience as to the rest of Yang Ming's BCO customers. In an email dated July 14, 2021, Yang Ming employee James Defilippis sent an internal email to other Yang Ming employees confirming that "***no one has been receiving their allocation*** . . . ." Defilippis also informed another of Yang Ming's shipping customers, CVS, that "none of our accounts are receiving their contractual obligation to meet their MQC… [ellipsis in original] ***actually not even close, most less than 10%***. There are many factors contributing to this. While they did a good job controlling MQCs… ***the desire to expand the account base was a hindrance… [m]y feeling is that it was not the right year for this from our side but Taipei did wish to expand our base so we are struggling obviously***."

51. In November 2021, halfway through the shipping year, Yang Ming created a review of the "effective space allocation" given to U.S. customers. In the words of Greg Krueger, Vice President of Sales at Yang Ming (America) Corp., "[i]t is a random sampling of the effective space allocation vs. actual space given. ***We are generally week over week short by 1000 TEU***… still

need HQ to be aware of our struggles dealing with BCO customers on this side." Even worse, that shortfall figure ***already included*** "allowances [] for [blank sailings] and skipped ports . . ."

52. Yang Ming's reduced allocation scheme was a major source of concern that was well-attested throughout the 2021 Shipping Year:

- Sandy Hsu, a manager based in Yang Ming's headquarters to whom Dan Vidal reported, later ***confirmed*** Vidal's account of the miscalculated allocation on multiple occasions. One week into the 2021 Shipping Year, she stated to James Defilippis—Yang Ming's Regional Sales Manager for the Northeast Region—that "frankly speaking, [] the total MQC we sign this year is already more space than we can provide."

- A few weeks later, while discussing BCOs with service contracts, Hsu acknowledged that Yang Ming had signed service contracts for more cargo space than Yang Ming actually had available: "we are unable to fully support all of them, but will still try to allocate few containers for each account if all possible. Though it is not good enough obviously, it should be better than getting nothing."

- The next year, Hsu again confirmed that Yang Ming had incorrectly allocated space and was not able to fulfill its commitments: "During the past one year, we overcommitted the MQC and this turns out that it is impossible to fulfill and also brings us many problems."

53. Yang Ming was aware of the port and rail congestion issues that all BCO customers, including Complainant, faced during the 2021 Shipping Year. An internal Yang Ming presentation dated December 17, 2021 noted that "[d]ue to all USWC terminals are congested, appointments are difficult to get, vendors were picking up less containers." Before the Service Contract even began, in April 2021, Greg Krueger was already noting that Yang Ming "understand[s] all the circumstances surrounding the [blank sailings], port congestion, and lack of equipment" and that "we do have concerns regarding space accommodations for YML BCO accounts signed in 2021. . . . We have attached a quick analysis of the space commitments and the past historical space allocated. . . . ***As you will see we are only accommodating now 55% of the 2021 signed BCO volume***."

54. Over the course of the 2021 Shipping Year, Yang Ming employees would continue to blame their headquarters' greed for Yang Ming's inability to deliver space to its customers, such

as Senior Account Executive Joel Yero stating that "we can not accommodate the incumbent BCO's and targets I was able to sign. Had I known from the beginning that we would not be able to handle the volume I would have never pursued. This has not only made me look bad but also YM as a company."

55. Indeed, during this time, Yang Ming experienced many disputes with its customers as to fulfillment of MQC service commitments and customer complaints that they were not receiving enough space to meet their MQC under service contracts.

56. Internal Yang Ming emails during the 2021 Shipping Year revealed mounting pressure from Yang Ming's BCO customers to address shortfalls:

- James Defilippis, Yang Ming's Regional Sales Manager for the Northeast Region, wrote regarding Yang Ming customer YMF Carpet Inc.: "we lifted 205 TEUs total, that means we gave them 17% of their contracted volume." He further confirmed that the fault was Yang Ming's when he added "I can send you the consistent rejections if you wish to see them".

- Dan Vidal wrote regarding Yang Ming customer Delta Enterprise "that they are not getting the weekly allocation from these origins on a consistent basis."

- Joel Yero stated regarding Yang Ming customer SG Footwear that "[t]hey are demanding that we provide the weekly 8FEUS as prorated per their contract and want to speak to our management team in Taipei next Wednesday June 16 to discus[s] their dissatisfaction with YM" and mentioned that he "was called 'useless'" by the customer's logistics team.

- Regarding six Yang Ming customers (PemAmerica, Kurt Adler, BabyBoom, Acme Plastics, Multipet, and National Public Seating), Joel Yero noted that they were "all… complaining that we have not released any space to them…"

- Six weeks into a contract with another customer, Yang Ming Senior Account Executive Joel Yero acknowledged "they have attempted to book 137FEUS with us out of Shanghai and we have not provided a single container."

- On May 25, 2021, Yang Ming Senior Pricing Manager Bill Ly complained about being forced to foist Peak Season Surcharges ("PSS") upon his "small" customers given that "they have been pretty much shut out in terms of getting any space release[d]".

- In early June 2021, after having already been denied space for two months, Yang Ming customer Crispo Canada stated plainly: "The fact is you are not giving us space because

> you are being greedy and putting money ahead of customer loyalty – Shame on you[] and Shame on Yang Ming – you have caused us serious damage."

These are just representative examples of Yang Ming's broad, systematic failure to meet its service commitments to its BCO customers in favor of higher-priced freight.

In addition to failing to provide cargo space allocations to meet or approach its service commitments, Yang Ming also regularly rejected BCO customers' bookings.

57. Under Yang Ming's allocation scheme, booking rejections were common, with Yang Ming employees frequently placing responsibility firmly on the carrier.

58. These declined bookings were a result of Yang Ming's own policies.

59. For example, as set forth above, Yang Ming took the risky move of fully committing all of its anticipated cargo allocation for the next year into service contracts, which did not leave buffer room for delays or kinks in the supply chain throughout the 2021 Shipping Year. As alleged below, Yang Ming's booking rejections to BCOs were also meant to make way to sell more space to NVOCCs at higher rates than the lower fixed rates that BCO shippers had in their service contracts.

60. Yang Ming engaged in several unjust and unreasonable practices to reject bookings and thereby deprive Complainant, and, upon information and belief, other BCO shippers, of contracted cargo space, including:

a. summarily rejecting bookings for unavailable container sizes instead of offering or providing alternative container sizes;

b. rejecting, without explanation, bookings that exceeded whatever allocation Yang Ming had arbitrarily set in its internal systems—regardless of whether that allocation was consistent with the applicable MQC or guaranteed space level—in their entirety, instead of only to the extent that such bookings exceeded such arbitrary allocation, MQC, or guaranteed space level;

c. requiring Complainant to email Yang Ming for bookings and then simply failing to respond to Complainant's booking emails, leaving the requests in pending status without any confirmation or rejection; and

d. implementing ad hoc, arbitrary booking windows without providing information to Complainant or, upon information and belief, other BCO customers.

Yang Ming's policies and procedures also favored higher priced freight, compounding its over-commitment to its customers and explaining its vast shortfalls to BCOs.

61. Upon information and belief, Yang Ming had the ability to perform its obligations under the Service Contract. Yang Ming is one of the world's largest international container transportation and logistics companies. During the relevant time period, Yang Ming was also a member of the second-largest global shipping alliance with other major container shipping companies. Yang Ming's cargo capacity was plainly large enough to accommodate the MQC set forth in the Service Contract.

62. Upon information and belief, and as shown by Yang Ming's revenues and profitability despite failing to ship 73% of the freight that was supposed to be committed to Complainant, Yang Ming's shortfalls on its service commitments to Complainant and other BCO shippers with service contracts were the result of Yang Ming violating its service commitments and offering bargained-for space to other shippers who were willing to pay higher freight prices.

63. Upon information and belief, Yang Ming's failure to provide contracted space to Complainant was part of a practice by Yang Ming of preferring higher-priced freight. Yang Ming's internal documents establish that during the period at issue in this action, Yang Ming favored NVOCCs on short-term spot market-based rates and BCOs on premium price service contracts while falling short on its non-premium fixed-price BCO service contracts.

64. Upon information and belief, Yang Ming's actions were designed to, and did, enrich Yang Ming by allowing Yang Ming to obtain wildly inflated spot market prices instead of the agreed (and still profitable to Yang Ming) rates that Yang Ming had already committed to providing under its Service Contracts with Complainant and other BCO shippers.

65. Upon information and belief, Yang Ming ultimately allocated less than 30% of its total capacity to its BCO customers while allocating approximately 70% to its NVOCC customers.

66. Upon information and belief, Yang Ming's practice of auctioning off space at a premium, while falling short on its service commitments, was operative throughout the 2021 Shipping Year.

67. Upon information and belief, Yang Ming sought to exploit higher rates through spot market prices, including floating NVOCC service contracts, at the expense of its fixed-price contract BCO customers, like Complainant.

68. Fixed-rate service contracts typically involve fixed rates for the entire contract year, but contracts based on floating rates, such as Yang Ming's service contracts with NVOCC customers, are adjusted periodically and, upon information and belief, sometimes as frequently as every two weeks to reflect market conditions. Yang Ming recognized that the rates were mainly driven by supply and demand. By systematically favoring floating NVOCC customers over fixed-price customers, Yang Ming was able to close the gap between its contract prices and the prevailing (and skyrocketing) spot market prices. Upon information and belief, Yang Ming sought to capitalize on the lucrative rates it could charge for cargo space on its ships by shifting freight to spot-market rate buyers. To be clear, upon information and belief, Yang Ming did not necessarily care whether it shipped pursuant to fixed-rate contracts or otherwise—as long as it could access

the high premiums for space on the open market, whether through floating rates with NVOCCs or high surcharges tacked on to a contract rate.

69. With the massive increase in spot market rates during the pandemic, and despite already lagging behind in its service commitments to Complainant and other BCOs with service contracts in the early months of the 2021 Shipping Year, upon information and belief, Yang Ming made the decision to continue to short its fixed-rate service commitments in favor of selling space to the highest bidder.

70. In a Yang Ming internal email dated May 19, 2021, Yang Ming's Regional Sales Manager for the Northeast Region, James Defilippis, succinctly summarized the problem:

> ***If our plan was to . . . chase the money and give the majority of the space to the spot market to get revenue, then the volume and numbers of accounts for the BCOs should have been reduced*** to reflect this and be realistic.

71. Perhaps just as succinctly, in an internal email dated May 27, 2021, Yang Ming Senior Account Executive Joel Yero stated that "***there will be more [consequences] to follow within the coming days if we do not start treating our BCO's fairly.***"

72. Later, on June 7, 2021, Defilippis stated:

> ***If [a] shipper calls to make a booking today for 10x40's under his contract, he will not get space. If he calls an NVOCC who uses YML***, let's just say DSV or Expeditors and books 10x40's with them ***through YML*** on their spot market contract, he will get 10x40's.

73. This complaint about Yang Ming's revenue chasing, and the ease of getting Yang Ming space on the spot market when that contracted-for space was otherwise denied, was widespread and well known to Yang Ming employees, who openly discussed it with apparent frustration. The conversation above began with Defilippis simply relaying the frustration he heard from customers:

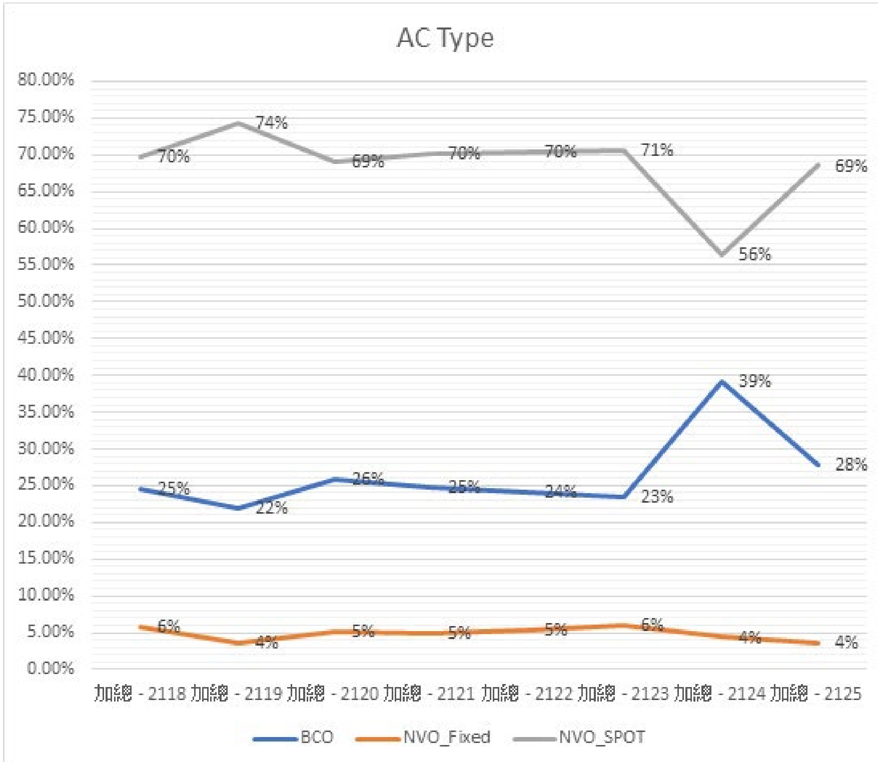
> ***I had a not so pleasant conversation with [a Yang Ming customer] today***. I will not advise all of it as there was plenty of foul language used about our company

> and business practices. ***He still claims they are getting nothing despite your attached. He also claims he can get all the space he wants on YML through agents or forwarders by paying $12,000-$13,000*** . . . unless we give these accounts something, I expect to hear the same threats over and over . . . [ellipsis in original] ***especially when they can get space through NVOCCs, it is sending an obvious message*** . . . [ellipsis in original] ***that we are ju[s]t chasing the revenue and his contract means nothing***.

74. Yang Ming also had a policy of discriminating by giving additional space—over and above MQCs—to certain favored larger customers, thereby depleting the available space for other customers like Complainant for whom Yang Ming was well behind on their MQCs. In an internal Yang Ming email dated August 20, 2021, Defilippis acknowledged that, even though shippers such as Complainant were receiving almost no space, "some of our major BCOs are receiving almost 400 TEUs above what we agreed to give them." Defilippis called that "an ***egregious amount*** when ***so many accounts are suffering with next to nothing***." Even Defilippis's proposed solution seemed to accept the inevitability of Yang Ming violating its service obligations: "Obviously, we need to take care of our big guys as we need them in the fold for years to come but I still do not understand how we cannot take 300 of those TEUs and satisfy 15 accounts that may be 20 TEUs short of what we agreed to each week and still be giving our big account 100 TEUs more than what we agreed."

75. Defilippis's May 27, 2021 internal email acknowledged the problem was widespread: "***Every single customer that calls, even the ones who want to sign a contract but we are turning away, knows what is happening. Someone is getting the space and it is the accounts that are paying the most.***"

76. On July 13, 2021, corroborating Defilippis's account, and two and a half months into the 2021 Shipping Year, Yang Ming employee Bella Yang circulated a graph showing that the vast majority of space was going to "NVO_SPOT" shippers:



77. The discussions of Yang Ming's employees about its open and obvious favoring of more expensive freight while shorting its BCO customers is laid bare in Yang Ming's own performance data as well, showing that even if it is true that Yang Ming, at the beginning of the 2021 Shipping Year, planned to allocate 60% of space to NVOCCs and 40% of space to BCOs, Yang Ming in reality much more heavily favored its NVOCC customers by in reality giving only ~30% of its space to BCOs and ~70% to NVOCCs.

78. Upon information and belief, Yang Ming's actions in deliberately failing to honor its service commitments and instead allocating space to the highest bidder also contributed to the inflationary spiral in container rates by artificially increasing demand, including by forcing shippers who had already negotiated service contracts into the open market to make up for shortfalls caused by Yang Ming's unfair and unreasonable practices.

79. Complainant was unaware of (1) the massive shortfalls discussed above regarding Yang Ming's prior performance for its BCO customers or (2) Yang Ming's policy of "sign now,

renege later" when it came to MQC service commitments—which, upon information and belief, Yang Ming's representatives affirmatively concealed from Complainant—and reasonably relied on Yang Ming to fulfill Yang Ming's service commitment under the Service Contract.

80. Complainant complied with its own obligations under the Service Contract, including by diligently seeking to ensure that its forecasts to Yang Ming of Complainant's needs for the 2021 Shipping Year would be accurate, regularly providing Yang Ming updated container forecasts, and regularly reviewing container space provided by Yang Ming.

81. Yang Ming's performance—or lack thereof—under the Service Contract was abysmal. In all, during the Service Contract year, despite committing at the outset to provide 2,226 FEUs of space to Complainant, Yang Ming carried only approximately 616 FEUs of cargo for Complainant. As a result of Yang Ming's approximately 1,610-FEU shortfall, Complainant was forced to seek carriage from other sources at higher rates, or else forgo shipments entirely. As a result, based on average amounts paid, Complainant has been damaged by at least $14.77 million.

Yang Ming's Refusals to Deal or Negotiate

82. Yang Ming's conduct with respect to Complainant as alleged herein constituted unlawful refusals to deal or negotiate.

83. Complainant and Yang Ming engaged in detailed discussions regarding forecasts breaking down Complainant's anticipated needs under the Service Contract. However, as alleged above, when Complainant or its agents actually sought to book the space for which Complainant had contracted, Complainant was unable to secure the space at the appropriate prices, if at all, due to Yang Ming's practices alleged herein of refusing to deal with Complainant pursuant to the Service Contracts in favor of more expensive freight in the form of added surcharges or by selling Complainant's bargained-for space to other shippers who agreed to pay higher prices.

84. As alleged herein, Yang Ming's refusals to deal or meet its service commitments continued throughout the term of the Service Contract.

Complainant's Injuries

85. As alleged herein, Yang Ming's behavior has caused significant harm to Complainant in numerous ways, such as producing delays in freight transportation, causing uncertainty within the business, and disrupting Complainant's ability to ensure the timely availability of merchandise for sale to U.S. customers, and resulting in injuries, including lost profits, in an amount to be determined at trial.

86. Yang Ming's shortfalls in honoring its service commitment during the 2021 Shipping Year forced Complainant to secure space on the open market at high prices, resulting in damages based on average amounts paid of at least $14.77 million.

* * *

87. As the FMC's Chief Administrative Law Judge has already found in another matter alleging similar wrongdoing by another carrier, abuses like those alleged herein are matters of "national importance." Abusive, unjust, and unreasonable practices by major international ocean carriers, such as the conduct alleged herein, are likely to wield outsized influence over general practices in the industry. If not corrected, Yang Ming's unlawful practices may become industry standard, sending a message to all global container lines that it is acceptable to ignore service contracts.

88. Complainant previously notified Yang Ming of its Shipping Act claims alleged herein, and thereafter Complainant and Yang Ming entered into a tolling agreement with respect to such claims effective as of April 15, 2024 through the present. As such, Complainant's claims alleged herein are timely brought.

VI. CAUSES OF ACTION

COUNT I: VIOLATION OF 46 U.S.C. § 41102(c)

89. Complainant repeats and realleges each and every allegation above as if fully set forth herein.

90. Yang Ming's practices alleged herein of systematically failing to meet its service commitments to Complainant and, upon information and belief, other shippers constituted failures by Yang Ming to establish, observe, and enforce just and reasonable practices relating to receiving, handling, storing, and delivering the property of Complainant and, upon information and belief, other shippers, in violation of 46 U.S.C. Section 41102(c).

COUNT II: VIOLATION OF 46 U.S.C. § 41104(a)(2)

91. Complainant repeats and realleges each and every allegation above as if fully set forth herein.

92. Yang Ming's practices alleged herein of systematically failing to meet its service commitment to Complainant and refusing to honor the agreed rates under the 2021 Service Contract—including by declining to release bookings due to internal rate filing issues and attempting to charge rates inconsistent with the final agreed terms—constituted provision of service in the liner trade that was not in accordance with the rules and practices contained in Yang Ming's Service Contracts with Complainant, for which no exception or exemption applies and that have not been suspended or prohibited by the FMC, in violation of 46 U.S.C. Section 41104(a)(2).

COUNT III: VIOLATION OF 46 U.S.C. § 41104(a)(10)

93. Complainant repeats and realleges each and every allegation above as if fully set forth herein.

94. Yang Ming's practices alleged herein of systematically failing to meet its service commitments to Complainant and preferring higher priced carriage of other shippers' cargo constituted unreasonable refusals to deal or negotiate with Complainant in violation of 46 U.S.C. Section 41104(a)(10).

VII. CAUSATION

95. Yang Ming's practices of systematically failing to meet its service commitment to Complainant has directly and proximately injured Complainant by forcing Complainant to make alternate transportation arrangements at substantially higher prices for cargo that could and should have been carried by Yang Ming pursuant to the terms of the Service Contract, or forgo shipping such cargo altogether.

96. Yang Ming's conduct has caused Complainant to incur other injuries, including delays, failures to receive time-sensitive merchandise, reduced inventory available for sale, unnecessary expenses, lost profits, as well as attorneys' fees and expenses relating to litigation.

VIII. REPARATIONS SOUGHT/COMPLAINANT'S DAMAGES

97. Yang Ming's alleged misconduct has injured Complainant in several ways.

98. During the term of the Service Contract, Yang Ming's misconduct alleged herein caused Yang Ming to carry only approximately 616 FEUs of the 2,226-FEU MQC in the 2021 Service Contract for Complainant, resulting in an approximately 1,610-FEU shortfall for which Complainant had to make alternate transportation arrangements at higher prices or forgo shipping such cargo altogether, resulting in excess freight charges paid, lost profits, and/or other business damage.

99. The additional incremental cost of replacing Yang Ming's approximately 1,610-FEU shortfall during the 2021 Shipping Year based on average amounts paid was at least $14.77

million more than what Complainant would have paid had Yang Ming honored its service commitments.

100. As recently recognized by the FMC's Chief Administrative Law Judge in *OJ Commerce v. Hamburg Südamerikanische Dampfschifffahrts-Gesellschaft A/S & Co. KG et al.*, FMC Docket No. 21-11, in which an ocean common carrier similarly failed to fulfill its service commitments and caused a shortfall of container carriage for the shipper, lost profits can be determined by calculating the average profits per container of the shipper's cargo actually carried by the carrier multiplied by the shortfall of containers that the carrier failed to carry. The per-container average profit applicable to Complainant's goods for the relevant time period is a matter of fact to be proven at trial, and at least one methodology of calculating Complainant's lost profits would be to multiply Complainant's average per-container profit by Yang Ming's service commitment shortfall of approximately 1,610 FEUs. Complainant's lost profits shall be demonstrated in an amount to be proven at trial.

101. In instances to be proven at trial, Complainant was unable to mitigate Yang Ming's failure to honor its service commitments to Complainant by securing higher-priced freight on the open market, and sustained lost profits as a result of the reduction of imported cargo.

102. In all, the injuries alleged in this Complaint total an amount up to or exceeding $14.77 million, in addition to other injuries, including lost profits, to be calculated at trial.

IX. PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests that the FMC require Yang Ming to answer this Complaint pursuant to 46 U.S.C. Section 41301(b), and prays for relief from the FMC as follows:

1. An investigation by the FMC pursuant to 46 U.S.C. Section 41301(c) of the allegations in this Complaint;

2. An Order, after due investigation pursuant to 46 U.S.C. Section 41301(c), finding that Yang Ming has violated 46 U.S.C. Section 41102(c) by systematically failing to meet its service commitments to Complainant and, upon information and belief, other shippers under its service contracts, that Yang Ming has violated 46 U.S.C. Section 41104(a)(2) by providing service not in accordance with the rules and practices contained in Yang Ming's Service Contract with Complainant, for which no exception or exemption applies and that have not been suspended or prohibited by the FMC, and that Yang Ming has violated 46 U.S.C. Section 41104(a)(10) by unreasonably refusing to deal or negotiate with Complainant concerning Yang Ming's systematic failure to meet its service commitments to Complainant under the Service Contract;

3. An Order compelling Yang Ming to cease and desist from violation of the Shipping Act, and to put in place lawful and reasonable practices to preclude Yang Ming from systematically failing to meet its service commitments to Complainant and other shippers under its service contracts;

4. An Order requiring Yang Ming to pay Complainant reparations for the unlawful conduct alleged herein in an amount to be proven pursuant to 46 U.S.C. Section 41305, with interest pursuant to 46 U.S.C. Section 41305(a), Complainant's reasonable attorneys' fees as "the prevailing party" pursuant to 46 U.S.C. Section 41305(e), and any other sum the FMC determines to be proper; and

5. Such other and further orders or relief as the FMC deems just and proper.

X. REQUEST FOR ORAL HEARING

Complainant requests an oral hearing in Washington, DC.

Dated: June 27, 2025

Respectfully submitted,

HUTH REYNOLDS LLP

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Counsel for Complainant Dollar General Logistics, LLC

VERIFICATION

I, Chelsea Morris, am Vice President of Global Inbound Transportation of Dollar General Corporation, 100 Mission Ridge Dr., Goodlettsville, Tennessee 37072, telephone 615-855-4000, email cmorris@dollargeneral.com. I have read the foregoing Verified Complaint and believe, to the best of my knowledge, information, and belief, including information received from others and publicly available information, that the facts stated therein are true and correct. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 27, 2025.

Signed by:

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