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OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION

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May 21, 2012

Karen V. Gregory, Secretary
Office of the Secretary
Federal Maritime Commission
800 N. Capitol Street, N.W., #900
Washington, DC 20573

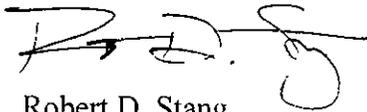
Re: Docket No. 11-14: Complainant's Brief in Submission of Claim for
Reparations and Damages by Petra Pet, Inc., Complainant's
Proposed Findings of Fact and Complainant's Appendix

Dear Ms. Gregory:

Attached with this letter please find Complainant's Brief in Submission of Claim for Reparations and Damages by Petra Pet, Inc., Complainant's Proposed Findings of Fact and Complainant's Appendix submitted by Robert D. Stang and Sanford M. Saunders of Greenberg Traurig, LLP in Docket No. 11-14.

Should you have any questions, please contact me at 202-533-2388.

Respectfully submitted,



Robert D. Stang

Enclosures

cc: Sanford M. Saunders, Esq.

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**BEFORE THE
FEDERAL MARITIME COMMISSION**

MAY 22 2011

OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION

PETRA PET, INC. (a/k/a PETRAPPORT))
)
 Complainant)
)
 vs)
)
 PANDA LOGISTICS LIMITED,)
 PANDA LOGISTICS CO., LTD. (f/k/a PANDA)
 INT'L TRANSPORTATION CO., LTD.),)
 RDM SOLUTIONS, INC.)
)
 Respondents)

FMC Docket No. 11-14

**BRIEF IN SUBMISSION OF CLAIM FOR REPARATIONS
AND DAMAGES BY PETRA PET, INC.**

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**BEFORE THE
FEDERAL MARITIME COMMISSION**

PETRA PET, INC. (a/k/a PETRAPPORT))	
)	
Complainant)	FMC Docket No. 11-14
)	
vs)	
)	
PANDA LOGISTICS LIMITED,)	
PANDA LOGISTICS CO., LTD. (f/k/a PANDA)	
INT'L TRANSPORTATION CO., LTD.),)	
RDM SOLUTIONS, INC.)	
)	
Respondents)	

**BRIEF IN SUBMISSION OF CLAIM FOR REPARATIONS AND DAMAGES BY
PETRA PET, INC.**

INTRODUCTION

This case concerns Petra Pet, Inc. ("Petra Pet" or "Petrapport"), a U.S. importer and distributor of pet treats, having its cargo illegally held hostage while two non-vessel ocean common carriers fight over payment for the shipments of cargo. There is no dispute that Panda Logistics Limited or Panda Logistics Co., Ltd. (f/k/a Panda Int'l Transportation Co., Ltd.) (collectively "Panda Global"), a non-vessel ocean common carrier ("NVOCC") in China, worked with RDM Solutions, Inc. ("RDM Solutions"), a second NVOCC in the United States, to transport shipments of Petra Pet's pet treats from China to the United States.

The two NVOCC's (Panda Global and RDM Solutions) had a co-loading arrangement whereby Panda Global issued freight collect bills of lading identifying Petra Pet as the consignee, Petra Pet's customs broker, Kuehne + Nagel, Inc. ("Kuehne + Nagel"), as the Notify Party and further identifying RDM Solutions on the bills of lading in the section covering freight charges.

Typically, Panda Global prepaid the vessel ocean common carrier for the freight and sent RDM Solutions a debit note for the freight and related charges along with the bills of lading. RDM Solutions billed Petra Pet at amounts consistent with the Panda Global debit notes; Petra Pet's customs broker paid RDM Solutions for those charges on Petra Pet's behalf; and RDM Solutions surrendered the required documents (*e.g.*, the bills of lading) enabling Petra Pet to obtain its goods.

The parties engaged in this course of dealing from 2007 to 2010 during which period they handled more than 100 Petra Pet shipments. In each shipment Petra Pet, through its agent Kuehne + Nagel, paid RDM Solutions based on the Panda Global bills of lading and corresponding RDM Solutions invoice. Each bill of lading identified RDM in the section of the bill of lading specific to freight charges.. Panda Global never instructed Petra Pet to pay a party other than RDM Solutions for the freight. RDM Solutions never rejected Petra Pet's payment. Panda Global never refused to deliver a shipment because Petra Pet paid RDM instead of Panda Global. Neither NVOCC claimed that RDM Solutions acted as Petra Pet's agent.

In or about July 2010 through November of 2010 RDM Solutions accepted Petra Pet's freight payments according to the companies' established course of dealing and the Panda Global bills of lading, but failed to make the required payments to Panda Global. Moreover, the owner of RDM Solutions (Mario Ruiz) disappeared. Thereafter, Panda Global disavowed its relationship with RDM Solutions and without any legal or factual basis invented the fiction that RDM Solutions was Petra Pet's agent. Panda Global then claimed that even though Petra Pet had paid RDM Solutions the freight for certain shipments, Petra Pet had to pay those amounts a second time directly to Panda Global.

Petra Pet refused to double pay for the freight shipments. In response, Panda Global refused to release bills of lading to Petra Pet on other shipments and effectively denied Petra Pet the ability to receive its goods, causing a number of Petra Pet shipments to accrue demurrage and significantly disrupting Petra Pet's supply chain and ability to deliver goods to customers. Subsequently, in January 2011 Petra Pet and Panda Global agreed on an amount required for Panda Global to surrender the required documents and

enable Petra Pet to obtain its goods; specifically, \$91,744.80 (adjusted to \$94,381.93 for exchange rate purposes). A small portion of that first payment (\$963.80) was duplicative such that Petra Pet was forced to pay the freight twice. Moreover, as a result of delays in surrendering the documents Petra Pet suffered \$29,784 in demurrage charges on goods held at the U.S. port.

This first payment of \$94,381.93 was made on or about January 7, 2011 and covered all goods with the exception of seven containers covered under four bills of lading dated December 18, 2010. Based on those bills of lading Petra Pet believed that the goods were on the water in transit to the United States.

On or about January 13, 2011 Petra Pet - through counsel's discussions with the ocean carrier (Hanjin Shipping Co., Ltd.)("Hanjin") - discovered that the seven containers were returned to China and contacted Panda Global to obtain release of those containers. In response, Panda Global forced Petra Pet to make a second payment covering the freight costs for those seven containers (\$23,400) plus an additional \$130,526.73, a total of \$153,926.73. Additionally, Petra Pet was forced to make separate payments to Panda Global of \$6,170 and \$12,600 as well as a separate payment to Hanjin of \$27,932.65 to cover a variety of port charges, demurrage charges and related fees in China.

Petra Pet ultimately paid the \$153,926.73 as well as the \$27,932.65, \$6,170 and \$12,600 demanded. Thereafter, the goods shipped and Petra Pet received the final seven containers in June 2011.

Due to the harm caused Petra Pet as a result of additional amounts paid in order to obtain release of its goods and/or permit those goods to ship to the United States, Petra Pet filed this action with the Federal Maritime Commission ("the FMC" or "the Commission"). As discussed below, Petra Pet is seeking damages and reparations as compensation for certain amounts paid to Panda Global plus additional amounts paid relating to port charges, demurrage and similar fees paid in the U.S. and China as a direct result of Panda Global's wrongdoing. Panda Global's egregious and illegal actions delaying delivery of the subject cargo coerced those payments and essentially forced

Petra Pet to indemnify Panda Global for the actions of Panda Global's co-loader, RDM Solutions.

PROPOSED FINDINGS OF FACT

Petra Pet's proposed findings of fact have been provided separately in accordance with the judge's Briefing Schedule and Service of Prior Orders dated March 28, 2011.

ARGUMENT

I. Panda Global Violated Section 10(d)(1) of the Act.

Section 10(d)(1) of the Shipping Act of 1984 ("the Act"), 46 U.S.C. § 41102(c), states that:

A common carrier, marine terminal operator, or ocean transportation intermediary may not fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

As discussed below, the evidence confirms that Panda Global's actions unquestionably violated section 10(d)(1) of the Act.

A. Panda Global improperly refused to deliver and release Petra Pet's shipments and directly caused Petra Pet damages.

When determining the types of actions evidencing a violation of section 10(d)(1) of the Act, the recent decision in *Bimsha International v. Chief Cargo Services, Inc. and Kaiser Apparel, Inc.* ("Bimsha"), FMC Docket No. 10-08 (December 14, 2011) is instructive. *Bimsha* involved allegations that an NVOCC violated section 10(d)(1) and the judge's decision noted that the FMC has recognized "the following acts or failures to act" as violations of that statutory provision:

- Failing to transport cargo in order to coerce payment for other shipments;
- Failing to carry out obligations established under the contract to transport cargo;
- Failing to notify the shipper that its cargo was not transported; and
- Failing to pay applicable demurrage charges.

Bimsha at 33, 34.

Panda Global issued bills of lading on December 18, 2012 covering the seven containers loaded onboard the Hanjin vessel bound for the United States. Hanjin advised counsel for Petra Pet that the seven containers were taken off of the vessel when it arrived in Pusan Korea, and that the seven containers were shipped back to China where they arrived by at least January 13, 2011. Thereafter, the evidence confirms that the containers sat in China until May 2011 when Petra Pet made successive payments to Panda Global \$153,926.73, \$6,170 and \$12,600, and further paid Hanjin \$27,932.65, all to release seven containers.

According to the ocean carrier (Hanjin) the ocean freight charges applicable to these seven containers were \$23,400. Consequently, Panda Global failed to transport the cargo until Petra Pet paid Panda Global an additional \$130,526.73 to transport the goods. Panda Global has been clear that this additional amount is attributable to amounts that Panda Global believes are owing from RDM Solutions with respect to different shipments. Consequently, Panda Global failed to transport the subject seven containers and coerced Petra Pet to pay Panda Global for amounts owing relating to other shipments.

The fact that Panda Global issued bills of lading indicating that the cargo would be transported to New York from China after being loaded in China on board the Hanjin vessel on December 18, 2010, and then diverted the cargo for no other reason than to coerce a payment from Petra Pet also confirms that Panda Global failed to transport the cargo as called for under the bills of lading. Both actions (failing to ship in order to coerce payments on other goods and failing to ship according to the terms of the bill of lading) are violations of section 10(d)(1) of the Act.

Moreover, Panda Global never notified Petra Pet that the seven containers loaded on board the Hanjin vessel on December 18, 2010 for shipment to the United States were taken off of the vessel and returned to China. That information only became known when Hanjin advised counsel with respect to the location of the seven containers in a telephone conversation on or about January 13, 2011. Panda Global's failure to notify

the consignee as to the location or transit of consignee's cargo establishes a further violation of section 10(d)(1) of the Act.

Finally, Panda Global refused to pay any of the demurrage charges, detention fees, customs fees, quarantine fees and similar amounts resulting directly from Panda Global's illegal actions in diverting Petra Pet's cargo and letting that cargo sit in China for at least four months. To the contrary, Panda Global forced Petra Pet first to pay an additional \$6,170 for release of the goods and thereafter issued Petra Pet a debit note (Debit # B11052409, May 20, 2011) for an additional \$12,600. Petra Pet disputed those charges, but Panda Global threatened to keep the goods in China. Consequently, Panda Global coerced Petra Pet into making additional payments for demurrage and similar charges resulting directly from Panda Global's diversion of Petra Pet's cargo contrary to the bill of lading. As noted in *Bimsha*, coercing these types of payments is a violation of section 10(d)(1) of the Act.

B. Panda Global forced Petra Pet to indemnify Panda Global for harm caused by Panda Global's co-loader.

1. There has never been an agency or other business relationship between Petra Pet and RDM Solutions other than that involving RDM Solutions acting as an NVOCC with respect to Petra Pet's shipments.

At the outset, the record clearly demonstrates that any "business relationship" between Petra Pet and RDM Solutions was limited to RDM Solutions acting as an NVOCC in conjunction with Panda Global's delivery of Petra Pet's shipments. RDM Solutions is not now and has never been, Petra Pet's agent. There is no agency contract or similar documentation (written or oral) establishing an agency relationship between RDM Solutions and Petra Pet. Petra Pet never paid RDM Solutions an agency commission. Panda Global's contentions that RDM Solutions was Petra Pet's agent are unsubstantiated and false.

2. RDM Solutions was Panda Global's business partner.

Panda Global confirmed a business relationship with RDM Solutions in Panda Global's email of July 26, 2010. As evidenced by Panda Global's debit notes and email correspondence, the Panda Global/RDM Solutions relationship involved a profit sharing arrangement the terms of which were actively withheld from Petra Pet.

Email correspondence between the parties confirms that Panda Global chose to engage RDM Solutions as its co-loader with respect to Petra Pet shipments. Both NVOCC's were identified on Panda Global's bills of lading. Both companies acted in concert to provide freight and logistics services pursuant to individual Panda Global bills of lading.

Panda Global and RDM Solutions' active cooperation with each other was conduct inconsistent with Panda Global's contention that RDM Solutions was Petra Pet's agent. For example, Panda Global's debit notes for freight, profit sharing and similar fees were never provided to Petra Pet. When the owner of Petra Pet, Steven Mendal, visited Panda Global in China, RDM Solutions instructed Panda Global not to provide Mr. Mendal with any pricing information. From the inception of the Panda Global/RDM Solutions relationship in 2007 through to July 2010, whenever Panda Global had difficulties with RDM Solutions, Panda Global contacted the owner of RDM Solutions and did not involve Petra Pet.

If RDM Solutions was Petra Pet's agent there would be evidence of the agent acting under the control of the principal and ensuring that it's principal was aware of the agent's business dealings and relationships. Similarly, Panda Global and RDM Solutions would have acted at arm's length rather than engaging cooperatively in a profit sharing relationship. Consequently, Petra Pet's claim must be evaluated not only in light of the fact that it had no agency relationship with RDM Solutions, but also in light of evidence establishing Panda Global's relationship with RDM Solutions.

3. Panda Global unjustly forced Petra Pet to indemnify Panda Global for RDM Solutions' wrongdoing.

Within the Panda Global/RDM Solutions business relationship there is no question that RDM Solutions was the party responsible for collecting amounts owed from Petra Pet and paying Panda Global according to Panda Global's debit notes. Additionally, the email correspondence confirms that Panda Global was keenly aware that its business relationship with RDM Solutions posed a number of financial risks. Nevertheless, Panda Global - and only Panda Global - knowingly chose to take those risks.

Email correspondence in 2005 confirms that even before RDM Solutions was formed, Betty Sun of Panda Global emailed Mr. Ruiz to inquire what logistics services Mr. Ruiz's company could provide. After RDM Solutions was formed in 2007 Panda Global (largely through Ms. Sun) and RDM Solutions (through Mr. Ruiz) handled Petra Pet's cargo and never indicated in any manner that Petra Pet was required to guarantee payments from RDM Solutions. For nearly four years, whenever Panda Global had financial difficulties with RDM Solutions, Panda Global followed up with RDM Solutions. Suddenly, though, when the owner of RDM Solutions disappeared in 2010, Panda Global invented the fiction that RDM Solutions was an agent of Petra Pet and used that spurious claim to force Petra Pet to indemnify Panda Global for wrongdoing by Panda Global's co-loader (*i.e.*, RDM Solutions).

In *Total Fitness Equipment, Inc. d/b/a Professional Gym v. Worldlink Logistics, Inc.* ("Total Fitness"), Special Docket No. 3110, (Report and Order adopting initial decision), the FMC reviewed a dispute wherein a U.S. company (Total Fitness) paid freight and other international transportation costs to the agent of an NVOCC. With respect to the shipment in question the NVOCC's agent underquoted the freight amount required. Thereafter, the NVOCC billed Total Fitness for the higher amount, refused to release Total Fitness' cargo and let the cargo sit, thereby accruing additional charges and storage fees. Total Fitness ultimately paid the additional freight and storage fees in order to secure release of its goods and thereafter filed a complaint with the FMC. The FMC found a violation of section 10(d)(1) adopting the ALJ's characterization of the payments

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in question “being in the nature of a forced indemnification.” *Total Fitness* at 9. Thereafter, citing to *Corpco Int’l Inc. v. Straightway, Inc.*, 28 S.R.R. 296 (1998), the Commission commented that “the existence of a dispute between an NVOCC and its agent does not excuse the NVOCC from discharging its obligations to the shipper-customer.” *Total Fitness* at 9.

The dispute between Petra Pet and Panda Global is similar to that addressed in *Total Fitness*. Panda Global’s dispute only involved RDM Solutions and did not involve Petra Pet. Consequently, in accordance with *Total Fitness*, Panda Global’s actions in refusing to release documents enabling Petra Pet to receive its cargo; permitting Petra Pet’s cargo to accrue demurrage and similar fees; and forcing Petra Pet to make payments covering those fees as well as wrongdoing by RDM Solutions amounted to a “forced indemnification” in violation of section 10(d)(1) of the Act.

C. Panda Global established a clear course of dealing with RDM Solutions and Petra Pet whereby Petra Pet was responsible for paying RDM Solutions and RDM Solutions was responsible for paying Panda Global.

Panda Global and RDM Solutions engaged in well over a hundred transactions over nearly four years to provide international transport and logistics services to Petra Pet. The companies arranged for the ocean carriage of Petra Pet’s cargo and followed up with the steamship lines (*e.g.*, Hanjin), notified Petra Pet of the shipment schedules, handled all necessary payments to transport the goods and ensured that Petra Pet had the required documents to take delivery of the goods when they arrived in the United States. With respect to RDM Solutions, Panda Global provided RDM Solutions with credit, agreed to a profit sharing arrangement, and entrusted RDM Solutions to wire hundreds of thousands of dollars on a timely basis. Panda Global does not deny its business relationship or agreement with RDM Solutions, but instead merely denies that the agreement was signed. With respect to the terms of the Panda Global-RDM Solutions business relationship, Panda Global points to a single email in 2008 from Panda Global to RDM Solutions whereby Panda Global proposes to ship goods on a freight prepaid basis, courier bills of lading on a weekly basis to RDM Solutions, provide RDM Solutions with credit and split the profits with RDM Solutions on a per container basis.

In a number of disputes where the terms of the invoices, bills of lading and other documents were not clear as to the nature of the relationship between certain parties the courts have looked to a course of dealing established between the parties in order to ascertain the actual business relationship. As noted in a case involving carrier liabilities, *Insurance Company of North America v. NNR Aircargo*, 201 F.3d 1111, 1113 (9th Cir. 2000):

A course of dealing is “a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.”

In certain instances merely four bills of lading have been held sufficient to support an analysis of a logistics provider’s liabilities based on a course of dealing. See *Royal Ins. Co. v. Sea-Land Serv. Inc.*, 50 F.3d 723, 727 (9th Cir. 955), also cited in 201 F.3d at 1114. In *NNR Aircargo* the court engaged in a course of dealing analysis based on 47 separate transactions. Panda Global, RDM Solutions and Petra Pet engaged in well over one hundred transactions over nearly four years. Consequently, in light of their volume of transactions and Panda Global’s silence as to the nature and terms of its business arrangement with RDM Solutions, it is appropriate in this instance to examine the course of dealing among the parties to ascertain the nature of any business relationships among them and corresponding liabilities.

When examining the course of dealing established among Panda Global, RDM Solutions and Petra Pet it is important to examine how Panda Global and RDM Solutions jointly dealt with Petra Pet as well as how Panda Global and RDM Solutions individually acted between themselves.

With respect to dealings between Petra Pet and the NVOCC’s, from 2007 through at least July 2010, Panda Global created bills of lading identifying RDM Solutions in the section concerning freight charges. Petra Pet (through its customs broker) paid only RDM Solutions for freight charges stemming from Panda Global’s bills of lading. Neither Panda Global nor RDM Solutions indicated during this time that Petra Pet should

pay some other party for the freight. Similarly, neither NVOCC copied Petra Pet on the Panda Global debit notes for freight and similar charges.

With respect to internal dealings between Panda Global and RDM Solutions, during this same time period we note once again that Panda Global continually issued debit notes to RDM Solutions for freight, profits and similar amounts owing, and RDM Solutions wired payments directly to Panda Global against those debit notes. Panda Global never sought to collect freight amounts owing directly from Petra Pet. Panda Global never indicated to Petra Pet that it should pay some party other than RDM Solutions. Moreover, Panda Global never indicated to RDM Solutions or Petra Pet that Panda Global considered RDM Solutions to be an agent of Petra Pet.

These facts demonstrate a course of dealing among the parties wherein Petra Pet was only responsible for paying RDM Solutions and RDM Solutions was the sole party responsible for paying Panda Global. Whatever agreement RDM Solutions and Panda Global may have had between themselves was not Petra Pet's concern and neither of the NVOCC's brought Petra Pet into their internal business arrangements. Essentially, Panda Global and RDM Solutions ensured that Petra Pet's cargo was on board the required vessel and delivered on time in the United States. Thereafter, Petra Pet paid the freight and related charges and received its goods. After paying the freight and related charges and receiving the goods Petra Pet had no further interest in whatever transpired between Panda Global and RDM Solutions. In light of that course of dealing, Panda Global should not be permitted to drag Petra Pet into an internal dispute solely between Panda Global and RDM Solutions.

Essentially, whatever the precise nature of the business relationships among the parties, the established course of dealing between the two NVOCC's does not give Panda Global the right to extort Petra Pet into indemnifying Panda Global for its co-loader's wrongdoing. Panda Global voluntarily chose to act in concert with RDM Solutions for nearly four years in providing logistics services to Petra Pet. Panda Global chose to extend credit to RDM Solutions on all required Petra Pet shipments. Panda Global chose to send its debit notes during this time period only to RDM Solutions. Panda Global

chose to accept payment only from RDM Solutions for nearly the entire time it handled Petra Pet transactions. Panda Global cannot be permitted to run from the relationship with RDM Solutions it voluntarily created or somehow twist that relationship in a manner unsupported by the law or facts.

If RDM Solutions was truly the agent of Petra Pet we would expect to see a much different course of action among the parties. We would expect at least to see RDM Solutions being transparent with Petra Pet concerning freight costs. However, with respect to Petra Pet, RDM Solutions was secretive concerning those costs. We would expect to see Petra Pet being notified of or copied on Panda Global's debit notes, but no such notification exists. In short, then, whatever the precise nature of the business relationship between Panda Global and RDM Solutions, Panda Global cannot be permitted to disavow that relationship for convenience purposes and create the fiction that Petra Pet was RDM Solutions' principal, and thereby responsible for transmitting freight charges directly to Panda Global.

All three parties established a course of conduct over nearly four years and more than a hundred shipments whereby (1) Petra Pet always paid RDM Solutions and received all documents to obtain the cargo and (2) RDM Solutions paid Panda Global. Petra Pet had a right to rely on that course of dealing. The course of dealing established over nearly four years among the various parties, then, establishes that only RDM Solutions was responsible for paying Panda Global and further supports the conclusion that forcing Petra Pet to compensate Panda Global for RDM Solutions' wrongdoing violated section 10(d)(1) of the Act.

D. Panda Global's failure to perform its fiduciary duties with respect to Petra Pet shipments demonstrates a violation of section 10(d)(1) of the Act.

In the case of *Tractors and Farm Equipment Ltd. v. Cosmos Shipping Co.*, 26 S.R.R. 788,796 (ALJ 1992, admin. final December 31, 1992), the judge commented on "the damage that a freight forwarder can cause if it fails to observe just and reasonable practices and forgets that it acts as a fiduciary having the power to inflict harm on the

shipping public.” Thereafter, the court found that the misconduct by a licensed freight forwarder established a violation of the precursor to section 10(d)(1) of the Act.

With respect to the dispute at hand, Panda Global was a licensed NVOCC performing freight forwarding services, and certainly had fiduciary duties to Petra Pet under the bills of lading. However, it unilaterally rerouted cargo causing Petra Pet’s cargo to sit for months on end in China accruing thousands of dollars in demurrage and similar charges. Panda Global’s actions confirm that Panda Global intentionally ignored its fiduciary responsibilities to Petra Pet and, instead, pressured Petra Pet to coerce a payment from an innocent third party as compensation for wrongdoing by Panda Global’s co-loader. That conduct, constitutes a violation of section 10(d)(1) of the Act.

II. Damages and Reparations Owed Petra Pet

Petra Pet seeks the following damages and reparations from Panda Global:

- Recovery of amounts attributable to double freight payments in Petra Pet’s first wire transfer: \$963.80;
- Demurrage that Petra Pet paid in the United States as a result of Panda Global’s failure to provide freight releases: \$29,784;
- Amounts over and above the freight charges that Panda Global coerced through Petra Pet’s second wire transfer concerning seven containers diverted back to China: \$130,526.73;
- Demurrage and storage costs Petra Pet paid with respect to containers diverted back to China: \$27,932.65;
- First miscellaneous payment from Petra Pet to Panda Global with respect to containers diverted back to China: \$6,170;
- Second miscellaneous payment from Petra Pet to Panda Global with respect to containers diverted back to China: \$12,600.

The total amount claimed by Petra Pet is \$207,977.18.

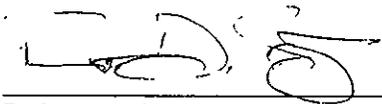
In the event that Petra Pet is awarded reparations pursuant this claim, then pursuant to Commission Rule 254, 46 C.F.R. § 502.254 Petra Pet will seek reasonable attorneys fees after receiving a final agency decision.

CONCLUSION

The foregoing facts and evidence demonstrate that Panda Global violated section 10(d)(1) of the Act. In light of those violations, we respectfully request damages and reparations in the amount of \$207,977.18 and reserve the right to request attorneys fees upon a final agency decision awarding reparations.

Dated: Washington, DC
May 21, 2012

**Respectfully Submitted on Behalf of Petra Pet, Inc.,
GREENBERG TRAURIG, LLP**

By: 
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CERTIFICATE OF SERVICE

I do hereby certify that I have delivered a true and correct copy of the foregoing document to the following addressees at the addresses stated via email transmission and/or by overnight mail on the 21st day of May 2012.

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Robert D. Stang

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