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BEFORE THE
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

REPLACEMENT OF COMPLAINANT'S REPLY TO
RESPONDENT'S OPPOSITION BRIEF

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INTRODUCTION¹

Pursuant to the Judge's Order of April 20, 2012, Complainant, Petra Pet, Inc. (a/k/a Petrapport) ("Petra"), through the undersigned counsel, submits this Reply to the Opposition Brief submitted by respondents Panda Logistics Limited ("Panda Logistics") and Panda Logistics Co., Ltd. (f/k/a Panda Int'l Transportation Co., Ltd.)("Panda Int'l")(collectively referred to herein as "Panda").

FINDINGS OF FACT

Petra's Findings of Fact, which were filed with the Federal Maritime Commission on May 21, 2012 are incorporated herein.²

ARGUMENT

I. Panda admits to actions violating section 10(d)(1) of the Act; specifically, the diversion of seven containers consigned to Petra while en route to the United States.

One of Petra's primary allegations concerns Panda's illegal diversion of seven containers en route to the United States in order to coerce a payment from Petra. Essentially, Petra claims that Panda caused the cargo to be rerouted back to China, where it sat under Panda's control until Petra paid the money that Panda demanded.

Panda admits that it issued the four bills of lading covering seven containers consigned to Petrapport. *See* APP. PETRA-0137-142. As per those bills of lading, the seven containers were loaded onboard the Hanjin Shipping ("Hanjin") vessel Ho Chi Minh on or about December 18, 2010 for shipment to New York. Panda further admits that those

¹ All references to APP. PETRA-_____, hereinafter refers to Complainant's Replacement Proposed Findings of Fact dated July 12, 2012.

² Petra amends its Proposed Findings of Fact in Paragraphs 44 and 59.a concerning three shipments with freight amounts totaling \$963.80. As per Proposed Finding of Fact 44, Petra's customs broker made the required payments for Petra to obtain the cargo covered by those three shipments. However, further review of those payments confirms that they were for miscellaneous port fees rather than for freight charges. As such, Petra removes its claim for damages of \$963.80 in Par. 59.a and reduces its claim for total damages in Par. 59 from \$207,977.18 to \$207,013.38

seven containers were diverted back to China. See Respondent's Response to Complainant's Proposed Findings Of Fact, ¶ 53. The Declaration of Kenny Chin from Hanjin further establishes that the seven containers were diverted back to China based on the instructions of the Shipper on the Hanjin bills of lading (which in this instance would be Panda, the NVOCC who had a contract with Hanjin and issued bills of lading to Petra).³ See APP. PETRA-0177 at ¶ 3. Finally, the fact that Panda instructed Hanjin to offload the containers in Korea and ship them back to China is verified by Petra's president, Dean Triandafellos. See APP. PETRA-0185-186 at ¶ 9, as well as Mr. Triandafellos' email in APP. PETRA-0143.

The standard for determining a violation of section 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. § 41102(c) ("the Act"), is well established. See, e.g., *Bimsha International v. Chief Cargo Services, Inc. and Kaiser Apparel, Inc.* ("Bimsha"), FMC Docket No. 10-08 (December 14, 2011). The FMC has recognized "the following acts or failures to act" as violations of section 10(d)(1) :

- 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.

Panda's actions fall squarely within these criteria. Panda was the carrier - an NVOCC - with respect to the seven containers. By interceding with Hanjin, stopping the transport of Petraport's cargo to New York (the destination stated in the bills of lading), causing the cargo to be returned to China and permitting the cargo to sit in China accruing

³ Kenny Chin is a Hanjin Deputy General Manager with first-hand knowledge of the movement of those seven containers and whose Declaration verifies that the Shipper identified on the Hanjin bills of lading (which is a different party than the Shipper identified on the Panda bills of lading) instructed Hanjin that the subject containers were to be offloaded from the Hanjin vessel in Korea and sent back to China. See APP. PETRA-0177 at ¶ 3.

demurrage, storage and additional charges until Petra paid Panda \$153,926.73 (even though the freight charges for the seven containers were approximately \$23,400), Panda failed to transport Petra's cargo in order to coerce a payment from Petra for other unrelated shipments.

Those actions also confirm that Panda breached its contractual obligation to transport the cargo according to the four bills of lading identified above. Those bills of lading established the contractual obligations between Panda and Petra, and required Panda to deliver the cargo to New York. They did not permit Panda to divert the cargo in Korea, ship the containers back to China, and jeopardize the cargo by permitting it to sit for an undetermined period of time.

Panda never notified Petra of Panda's intention to divert the cargo. *See* APP. PETRA-0185-186 at ¶ 9. Panda took this action secretly and never gave Petra warning that its cargo had been offloaded and sent back to China where it was being held under Panda's control. *Id.* Significantly, the Declaration from Betty Sun submitted by Panda does not address this issue; Panda's Proposed Findings of Fact do not address this issue; and Panda's Brief does not address this issue.

Bimsha notes that failing to pay applicable demurrage charges constitutes a violation of section 10(d)(1). In this instance, Panda's illegal actions required demurrage and storage payments of \$27,932.65, as well as separate payments of \$6,170 and \$12,600 to Panda for miscellaneous port charges. *See* APP. PETRA-0178 at ¶ 4; Panda's admissions to Petra's Proposed Findings of Fact ¶¶ 53, 54. In short, Panda has admitted to diverting seven containers of Petra's goods back to China while the goods were en route to the United States. Diverting those seven containers in a manner inconsistent with the bills of lading in order to coerce a

payment; failing to notify Petra of the diversion; and causing Petra further harm as a result of various demurrage charges, storage charges and port fees constitute clear violations of section 10(d)(1) of the Act.

II. Panda's relationship with RDM is irrelevant to Panda's illegal diversion of Petra's cargo.

Panda argues that its actions in this dispute were justified by the relationship (or lack thereof) of RDM Solutions, Inc. ("RDM") with Panda and Petra. Contrary to Panda's assertions, RDM's relationship with Panda or Petra - either as an agent or as an independent contractor - has absolutely no bearing on Panda's illegal diversion of Petra's cargo. Panda's failure to address the legality of diverting Petra's cargo in its Brief or Proposed Findings of Fact and its heavy reliance on RDM's relationship with Panda and/or Petra is simply a means to lead the discussion away from this damaging point. Whether or not RDM was an agent or independent contractor for shipments in 2010 is immaterial to Panda's decision to divert Petra's seven containers in January 2011. In fact, when Panda decided to divert Petra's cargo in 2011, RDM had effectively disappeared. Consequently, the decision and the responsibility to divert Petra's cargo lie entirely with Panda, as must the consequences of those illegal actions.

III. Panda violated the terms of the bills of lading.

Petra's brief cites to the terms in the bills of lading as well as extensive case law to support Panda's contention that Petra was obligated to pay Panda directly, rather than RDM, for the freight. In fact, the terms of the bills of lading are clear; however, those terms as well as the corresponding transport documents support the conclusion that Panda violated those terms, and that Petra was not and could not have known that it was obligated to pay Petra directly for the freight charges.

A. Panda's lien under the bills of lading does not permit Panda to hold documents for current shipments in order to coerce payments for prior shipments.

Panda has provided a copy of its bill of lading Conditions of Carriage. See Panda's Appendix 2.A. Paragraph 14 of those conditions, "Lien," states:

The carrier shall have a lien on the Goods and any documents relating hereto for all sums payable to the carrier under this contract and for general average contributions to whomsoever due and for the cost of recovering the same, and for that purpose shall have the right to sell the Goods by public auction or private treaty without notice to the merchant.

These conditions give the carrier the right to withhold documents for a shipment if the carrier has not been paid for the freight with respect to that shipment. They do not give the carrier the right to withhold documents, fail to deliver goods or take similar actions due to a perceived claim on prior unrelated shipments. The fact that Panda asserted a lien on certain goods and documents not for "sums payable to the carrier" with respect to the specific contract (the bill of lading) applicable to those goods and documents, but for sums relating to different contracts (different bills of lading covering prior shipments) confirms that Panda violated the terms of its own bills of lading.

B. Panda failed to follow the terms in the bills of lading for resolving disputes.

Paragraph 24 of the Panda Bill of Lading states:

Disputes arising under this Bill of lading may only be instituted in the country where the carrier has his principal place of business *and shall be decided according to the law of such country.* (Emphasis added.) See Panda's Appendix 2.A.

If Panda had a claim against Petra for freight on prior shipments, then Panda should have exercised its rights under the dispute resolution provision in Panda's bills of lading. Panda cites no legal foundation for its exercise of self-help and unilateral re-routing of the cargo. The fact

that Panda took such actions involving Petra's goods violated the terms of the bills of lading and as such demonstrated a violation of section 10(d)(1) of the Act.⁴

C. Panda violated Rule 2-020 of its tariff.

Rule 2-020 of Panda's tariff (Diversion By Carrier) filed with the FMC covers an ocean carrier's discharge of cargo at a terminal port other than the port named in the ocean bill of lading. *See* APP. PETRA-0187. The Note to Rule 2-020 in Panda's tariff provides that:

In no event shall any such transfer or arrangements under which it is performed by such as to result directly or indirectly in any lessening or increasing of the cost or expense which the shipper would have borne had the shipment cleared through the port originally intended.

Clearly, Panda's diversion resulted in increased costs and expenses to Petra. Consequently, Panda's diversion of the cargo violated Panda's tariff filed with the FMC and evidences a violation of section 10(d)(1) of the Act.

D. The bills of lading and contemporaneous shipping documents establish a business relationship between Panda and RDM and support the conclusion that Petra was only required to pay RDM for freight.

Panda physically issued the bills of lading and it was solely Panda's decision where and how to identify RDM on those documents. Panda identified RDM in the section of the bills of lading applicable to freight charges. It did not identify RDM as an agent for the Consignee.

Panda claims that Petra should have known to pay Panda the freight charges directly. Panda, though, voluntarily cooperated with RDM to create a document trail wherein the Panda bills of lading issued to Petra failed to identify freight charges, but instead pointed to RDM for this information. Moreover, Panda only provided those freight charges to RDM and cooperated with RDM in an arrangement whereby only RDM billed Petra for freight charges. The RDM

⁴ In fact, as demonstrated by Panda's current tariff filed with the FMC, Panda was keenly aware of this provision in its bills of lading and in 2011 amended this provision to require that disputes under the bills of lading be governed by the laws of and brought before the Hong Kong Special Administrative Region ("HKSAR").

invoices covering freight charges (*see* APP. PETRA-0016, 0018, 0022) are significant both for the language they contain and what they omit. The RDM invoices issued to Petra for freight charges contain the language “Please make check payable to: RDM Solutions Inc.” The RDM invoices for freight charges do not even reference Panda.

Panda’s actions are uniformly inconsistent with its position in the Opposition Brief. Panda did not identify the freight charges on the bills of lading provided to Petra. Panda did not copy Petra on Panda’s freight bills to RDM. Panda did not ensure that it was referenced on the RDM invoices for freight charges. If Panda believed RDM to be Petra’s agent then Panda would have identified RDM as such on the bills of lading, but did not do so. Panda chose to identify RDM in the section of the Panda bills of lading covering freight charges; failed to provide Petra with bills or other documentation identifying the freight charges; and failed to identify RDM as Petra’s agent on any documents. Furthermore, Panda cooperated with RDM to ensure that only RDM billed Petra for freight according to freight invoices that never mentioned Panda, but instead asked for direct payment to RDM. In light of these facts, it becomes clear that Panda’s contention that Petra knew or should have known that freight charges were owed directly to Panda is contravened by the record. Panda and RDM actively cooperated to create a document trail leading to the opposite conclusion and Panda must live with the results of its voluntary business associations and any documents created thereunder.

IV. Many of the assertions in Panda’s Brief are based upon speculation, incomplete statements or mischaracterizations of the evidence.

First, Panda’s claim that RDM acted as Petra’s agent and/or merely as a freight forwarder appears to be based on an email from Mario Ruiz to Betty Sun in 2005, as well as Betty Sun’s declaration of June 13, 2012. As quoted in Respondent’s brief, Mario Ruiz “informed Panda that his company would provide all of the services provided by a “freight forwarder.” That partial

quotation, though, is incomplete and misleading. The full email from Mario Ruiz states that his company would provide “all of the services expected form (sic) a Freight forwarder *and partner* in the U.S.” (Emphasis added.) See APP. PETRA-0038. The email is clear, RDM did not merely intend to act as a freight forwarder. They intended to act as Panda’s partner in the United States. The full quotation evinces a broader relationship -- now inconvenient for Panda.

Second, Panda’s has asserted that RDM never acted as a coloader on transportation handled by Panda. Nevertheless, email correspondence and contemporaneous documentation supports a coload arrangement between the companies. On March 6, 2008, RDM asked Panda “Are we going to be able to coload with you on your Hanjin contract for the dog chews.” On March 6, 2008 Panda *replies* “we need handing (sic) fee USD80/container, if you coload our contract rates with Hanjin.” See APP. PETRA-0056. Panda’s Brief at p. 9 notes RDM’s question, but fails to provide Panda’s reply.

Shortly thereafter, on April 3, 2008, Panda provided a more detailed proposal to RDM stating “Panda Global requires USD 150/container as profit share.” See APP. PETRA-0057. Once again, Panda omits this correspondence from its discussion, but the email correspondence is clear. Panda did not reject RDM’s request to coload on Panda’s Hanjin contract. Panda does not advise RDM that RDM is merely a freight forwarder as claimed in Panda’s Brief. Panda does not distance itself from RDM as Panda’s brief would have us believe. Rather, Panda welcomes the relationship with RDM and tells RDM Panda’s exact requirements for a coload relationship, including a handling fee or profits on a per container basis.

Sharing profits and paying handling charges evidence a business relationship. When Panda sent the documents specified in its business arrangement directly to RDM, Panda included Debit Notes to RDM specifically identifying “Profits Share” or “Handling Charge.”

See APP. PETRA-0070-75. These terms are identical to those stated in Panda's email correspondence concerning the particulars of a Panda-RDM coloadng relationship. Consequently, Panda's Debit Notes to RDM are consistent with a coloadng relationship between those parties.

Third, Panda claims that it was instructed to bill RDM for the freight. *See* Sun Dec., ¶ 16, ("Panda was instructed to bill RDM for transportation services it provided to Petra."). Panda, though, does not state that *Petra* instructed Panda to bill RDM for transportation services. If Panda claims that *Petra* instructed Panda to bill RDM, then Betty Sun's statement is directly contradicted by the president of Petrapport, (*see* APP. PETRA-0184-185 at ¶ 4), as well as the lack of any email correspondence or other written record of the supposed instructions. Who gave these instructions to Panda? When were they provided? Where is the record? The lack of such documentation undermines Panda's claim.

Fourth, Panda tries to distance itself from RDM by claiming that personnel from Panda and RDM never met in person. That statement is irrelevant, uncorroborated and inconsistent with the record, which includes thousands of pages of documents wherein Panda is either communicating directly with Mario Ruiz and/or RDM or else referencing Mario Ruiz and/or RDM. Moreover, Panda admits that it conducted business with Mario Ruiz "for approximately ten years," which establishes a course of dealing between the parties. Panda's Response Brief at p. 4. Regardless of whether those parties met in the same room, they communicated frequently and directly over an extended period of time.

Fifth, Panda mischaracterizes an email from Betty Sun to Petra on July 26, 2010. *See* APP. PETRA-0097-98. In that email Betty Sun acknowledges "we has (sic) agreed with RDM for payment term...." Betty Sun then notes that Panda was facing a tight cash flow, indicates that

if Panda cannot get paid for overdue freight it will hold certain items (presumably documents or shipments), and states “Let me know whether you can help us.” The email does not demand direct payment or invoke Petra’s contractual obligations. Rather, the email notes that Panda had special credit terms with RDM and asks for “help” in clearing up over due accounts. Petra properly took this to mean that Panda needed help getting RDM to pay the freight amounts RDM owed Panda and as such, quickly advised RDM to make the payment required. RDM immediately replied that the matter was “Taken care off” and Petra believed that this headache was solved.

Asserting that this correspondence should have put Petra on notice to pay Panda directly is belied by the express terms of the correspondence. Panda never asked Petra in this email to be paid directly. Panda never claimed in this email that RDM was Petra’s agent and Panda continued its practice of sending bills for freight amounts only to RDM. Contrary to Panda’s assertions, then, this email correspondence demonstrates that Panda had every opportunity to request direct payment from Petra. Panda could have asserted this request in an email or indicated it on a document provided to Petra, but failed to do so. That failure is consistent with Panda and RDM having a business relationship whereby only RDM was responsible for billing and collecting the actual freight amounts. Until Mario Ruiz disappeared, RDM paid Panda, albeit at times payment may have been slow. If Panda had requested direct payment from Petra then it would have been a breach of its business relationship with RDM and would have been inconsistent with an established course of dealing and business practices between those parties.

Sixth, Panda treats the July 26, 2010 email as notice to Petra that it should have been following up with Panda on the freight payments. However, Panda’s email to Petra November 30, 2010 tells a different story. That email is found in the verified Complaint (*see*

Complaint as filed, Document number 1, Exhibit 4). It clearly indicates that Panda was aware that RDM was not paying Panda on time, but chose not to “bother” Petra with “such problem, because we know your focus is taking good care of your customers and to do more good businesses.” In essence, Panda was fully aware of the situation with RDM and could have informed Petra of the situation at any time, but chose not to bother Petra and brought this information to Petra’s attention after Mario Ruiz had disappeared with the money. In that light, if Panda chose not to keep Petra informed of the deteriorating situation with RDM, then Panda cannot later fault Petra for not taking preventative measures.

V. Given the overwhelming evidence that Panda and RDM had a direct business relationship it is immaterial whether RDM acted as Panda’s agent or as Panda’s coloader.

The overwhelming weight of the evidence demonstrates that Panda and RDM had a direct business relationship. They recorded the terms of that business arrangement in email correspondence. They created documents consistent with the terms of that relationship. Panda’s and RDM’s actions with respect to Petra were consistent with those written terms. Betty Sun referred to that relationship in an email to Petra in July 2010 and when Panda had an opportunity to disavow that relationship or assert some different type of capacity with respect to Petra, Panda failed to do so.

Email correspondence between Panda and RDM specifically identifies the terms of a coload relationship and the shipping documents between the companies are consistent with those terms. Moreover, RDM went through the time and expense to become an FMC licensed NVOCC and advertised that fact to Panda. We also note that RDM performed actions consistent with an NVOCC. For example, RDM handled matters involving overseas Container Freight Stations, arranged U.S. inland freight, dealt with a number of trucking issues and entered into arrangements with destination agents such as Kuehne + Nagel (Petra’s customs broker and agent

in the U.S.).⁵ See RDM invoices at APP. PETRA-0188-201;⁶ APP. PETRA-0184 at ¶ 3; and APP. PETRA-0202 at ¶ 3.

Significantly, when the ocean carrier (*e.g.*, Hanjin) had an issue with a Panda bill of lading involving Mario Ruiz and requiring a contact in the United States, Panda put the ocean carrier and Mr. Ruiz in *direct contact*. As an example, please note the email correspondence found on APP. PETRA-0037, wherein the Panda employee states to Mr. Ruiz “We received call from Hanjing (sic) this morning” “We advised your cell phone No. to Hanjin, so that they can contact you. Also, pls kindly contact with Hanjin for this shpt asap.” It is not clear from this exchange whether RDM was acting as Panda’s coloader or as Panda’s agent. However, the exchange confirms that Panda held Mario Ruiz out to the ocean carrier (Hanjin) as an authorized party to handle issues involving Panda bills of lading.

Further to the Panda-RDM business relationship, Panda specifically identified RDM on the Panda bills of lading in the section specific to freight charges; until the current dispute never sent freight bills to Petra; and cooperated with RDM to establish a relationship whereby only RDM would bill and collect freight amounts owing from Petra (all actions consistent with RDM acting as Panda’s U.S. agent.)

Given that Panda has attempted to deny the existence of the Panda-RDM business relationship and all of the underlying documentation and evidence confirming its existence, the specific characterization of the Panda-RDM business relationship (agent or coloader) is not important. In either case, the evidence is inconsistent with RDM acting as Petra’s agent and

⁵ An NVOCC’s services may include “payment of multimodal transportation charges,” “Arranging for inland transportation,” and “Entering into arrangements with origin or destination agents.” 46 C.F.R. § 515.2(l).

⁶ Petra Pet has produced more than 200 RDM invoices issued to Petra for ocean freight, overseas Container Freight Station charges, trucking and inland freight, and similar charges required to transport Petra’s cargo to and distribute that cargo in the United States. The RDM invoices at APP. PETRA-0188-201 are representatives of those RDM invoices.

further establishes that Petra wholly satisfied its obligation to pay freight costs by paying RDM invoices for those charges. Equally important, irrespective of RDM's relationship to Panda or Petra, Panda had no right to divert Petra's cargo, extort double payments from Petra and force Petra to pay a number of demurrage charges, storage charges and similar port fees.

VI. Certain evidence provided by Panda is not reliable and as such, should be excluded.

FMC Rule 156, 46 C.F.R. § 502.156 states that:

In any proceeding under the rules in this part, all evidence which is relevant, material, reliable and probative, and not unduly repetitious or cumulative, shall be admissible. All other evidence shall be excluded.

Panda relies largely on the Declaration of Betty Sun to support its position. This Declaration, though, is self-serving, uncorroborated and contrary to existing correspondence. Paragraph 10 of the Sun Declaration is a partial and misleading quotation. Paragraph 11 states that Mr. Ruiz "acted as an agent for Petra." However, there is no support for this statement and even Panda's Opposition Brief acknowledges that the evidence is consistent with Mr. Ruiz's company acting as an independent contractor rather than as an agent. Paragraph 15 states that "Petra provided instructions to RDM as to how to handle Petra shipments." Where is the documentation for this uncorroborated hearsay? Paragraph 16 states that Panda was instructed to bill RDM, but does not say who gave the instructions. If the instructions were not provided directly to Betty Sun, then this statement constitutes double uncorroborated hearsay. Paragraphs 17, 18 and 19 are based on normal industry practices for third party billing, but fail to provide any evidence of industry standards or practices in that regard. Paragraph 23 states that RDM has never acted as a co-loader on transportation handled by Panda even though this statement is contrary to email correspondence and shipping documents between the companies. Paragraphs 37 and 38 conclude that Panda never held out RDM as an agent of Panda and that RDM never

acted as an agent of Panda, even though the evidence confirms that RDM was responsible for billing and collecting ocean freight charges according to Panda's Debit Notes.

Granted, both Complainant and Respondent have introduced documents that are alleged hearsay. However, several of the documents introduced by Complainant were produced by Respondent and are party admissions and thus are not hearsay. *See* Complainant's Proposed Findings of Fact Nos. 11, 34, 40, 42, 55 and 57. In other instances, documents introduced by Complainant are business records and are subject to an exception to the hearsay rule. *See* Complainant's Proposed Findings of Fact Nos. 12, 13, 24, 42. Equally important, the evidence introduced by Complainant is corroborated by email correspondence and logistics documents between the parties. Similarly, the Declaration from the President of Petrapport, Dean Triandafellos, is consistent with and corroborated by the Declarations from Kenny Chin at Hanjin and Lenore Snyder at Kuehne + Nagel, all of which points to the credibility of these Declarations⁷.

Alternatively, the Declaration of Betty Sun has little indicia of credibility. It is uncorroborated. It is inconsistent with email correspondence. It is inconsistent with the document trial. It is unsupported by evidence of industry practice. Consequently, this Declaration lacks reliability and should be excluded pursuant to FMC Rule 156.

CONCLUSION

WHEREFORE, the foregoing facts and evidence confirm that Panda's actions in diverting Petra's cargo, coercing payments and causing Petra further harm violated Section 10(d)(1) of the Act. As such, Petra should be awarded damages and reparations in the amount claimed.

⁷ Declarations of Kenny Chin, Dean Triandafellos and Lenore Snyder can be found at APP. PETRA-0177-183; 184-186; and 202, respectively.

Dated: July 16, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 2012, I have delivered a true and correct copy of the foregoing document to the following addresses at the addresses stated via email transmission and/or by overnight mail on the 16th day of July 2012.

Counsel for Panda Logistics Limited and Panda Logistics Co., Ltd.

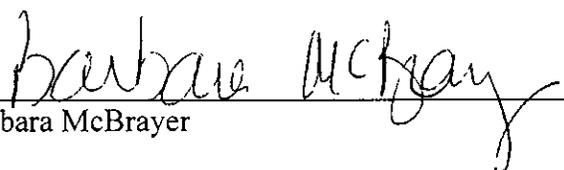
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