

FEDERAL MARITIME COMISSION

THE AUCTION BLOCK COMPANY, an  
Alaska corporation,  
  
Complainant,  
  
vs.  
  
THE CITY OF HOMER, a Municipal  
corporation and its PORT OF HOMER,  
  
Respondents.

Docket No. 12-03

ANSWER TO AMENDED COMPLAINT

Respondents, City of Homer and its Port of Homer, by and through its counsel, Birch Horton Bittner & Cherot, for answer to the Amended Complaint in this proceeding, state as follows:

I. Respondents admit that The Auction Block Company is a for-profit corporation in good standing organized under the laws of the State of Alaska, whose principal shareholder is Kevin Hogan; that The Auction Block Company is a seafood processing and logistics firm engaged in the primary purchase of Alaskan seafood and providing fishing vessel services at the Port of Homer; that The Auction Block Company receives, handles, stores, and delivers property; and that The Auction Block Company's principal place of business is 4501 Ice Dock Road, Homer, Alaska 99603. Respondents deny any other allegations in Paragraph I.

II. Respondents admit that the City of Homer is a municipal corporation, organized under the laws of the State of Alaska; that the City of Homer owns and operates the Port of Homer in Homer, Alaska, that the City Manager is Walt Wrede and the Harbormaster is Bryan Hawkins; and that the principal address of

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Respondents is 491 East Pioneer Avenue, Homer, Alaska 99603. Respondents deny any other allegations in Paragraph II.

III. Respondents admit that the City of Homer operates the Port of Homer and has filed the "Port of Homer Terminal Tariff No. 600 filed under ATFI Rules" which has been adopted and ratified by the Homer City Council. Respondents deny any other allegations in Paragraph III.

IV. Respondents admit that the State of Alaska levies a fish tax and shares revenue from that tax with municipalities, including Respondent City of Homer; that the City leases property in its harbor to Icicle Seafoods; that Icicle Seafoods formerly operated a fish processing plant on that property; that the Icicle Seafoods fish processing plant burned in 2001 and has not been rebuilt; that some of the fish that are delivered to Icicle Seafoods in Homer are transported to Seward for processing; that Complainant leases property from the City in the City Harbor; and that Complainant purchases fish for resale at its leased property in the City Harbor. Respondents deny any other allegations in Paragraph IV.

V. Respondents deny the allegations in Paragraph V, from p. 2, line 29 to p. 3, line 11. Respondents aver that the terms of the Terminal Tariff and the lease to Icicle Seafoods speak for themselves, and that no response to allegations regarding the terms of those documents is required. Respondents lack knowledge or information from which to form a belief as to the accuracy of the costs incurred by Respondent as alleged in Paragraph V from p. 4, line 30 to p. 6 at line 17, and therefore deny same. Respondents deny any other allegations in Paragraph V.

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V. (Second Paragraph V beginning at p. 6, line 18). Respondents deny the allegations in the second Paragraph V beginning at p. 6, line 18.

VI. Respondents deny the allegations in Paragraph VI.

VII. Respondents deny any allegations in Paragraph VII.

**AFFIRMATIVE DEFENSES**

I. The Commission lacks jurisdiction of the subject matter of Complainant's Complaint

II. Complainant's Complaint fails to state a claim for which relief can be granted.

WHEREFORE, Respondents prays that the Commission:

I. Dismiss Complainant's Complaint with prejudice; and

II. Grant Respondents any other and further relief that the Commission deems appropriate.

DATED this 9<sup>th</sup> day of May 2012.

BIRCH HORTON BITTNER & CHEROT  
Attorneys for Respondents

By: \_\_\_\_\_



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 9<sup>th</sup> day of May, 2012, a true and correct copy of the foregoing was served on the following in the manner indicated:

Kevin Hogan, kevin.auctionblock@gmail.com  
The Auction Block Company  
4501 Ice Dock Road  
Homer, AK 99603

- U.S. Mail
- Facsimile
- Electronic Delivery
- Hand Delivery

BIRCH HORTON BITTNER & CHEROT

By: \_\_\_\_\_  
Christine Manson

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