



A PROFESSIONAL CORPORATION

THE ARMY AND NAVY CLUB BUILDING SUITE 1100 1627 I STREET, NW WASHINGTON, DC 20006-4007
202.912.4800 800.540.1355 202.912.4830 FAX www.cozen.com

RECEIVED
2012 DEC -5 PM 12:14
OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION

December 5, 2012

VIA COURIER

Marc J. Fink
Direct Phone 202.463.2503
Direct Fax 202.618.4868
mfink@cozen.com

Ms. Karen V. Gregory
Secretary
Federal Maritime Commission
Room 1046
800 North Capitol Street, N.W.
Washington, D.C. 20573

Re: Century Metal Recycling Pvt. Ltd. v. Dacon Logistics, LLC, et al.,
FMC Docket No. 12-09

Dear Ms. Gregory:

Enclosed herewith are an original and five (5) copies of the Answer of Respondent Mitsui O.S.K. Lines Ltd. to Complaint in the above-captioned matter.

A copy of this letter and its enclosure has been provided for your acknowledgement of receipt.

Sincerely,

COZEN O'CONNOR

A handwritten signature in black ink, appearing to read "Marc J. Fink".

By: Marc J. Fink

Enclosure

ORIGINAL

OS
OGC
MUS(s)
Pub

**BEFORE THE
FEDERAL MARITIME COMMISSION**

2011 SEP -5 PM 3:54

OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION

Docket No. 12-09

CENTURY METAL RECYCLING PVT. LTD

COMPLAINANT

v.

**DACON LOGISTICS, LLC dba CODA FORWARDING, GREAT AMERICAN
ALLIANCE INSURANCE COMPANY, AVALON RISK MANAGEMENT, HAPAG
LLOYD AMERICA, INC. AND MITSUI OSK LINES**

RESPONDENTS

ANSWER OF RESPONDENT MITSUI OSK LINES TO COMPLAINT

Respondent Mitsui OSK Lines, Ltd. (“MOL”), by its undersigned attorneys, answers the Complaint of Century Metal Recycling PVT, Ltd and alleges upon information and belief as follows:

I. Complainant

- A. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph I.A.
- B. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph I.B.
- C. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph I.C.

II. Respondents

- A. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph II.A.
- B. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph II.B.
- C. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph II.C.
- E. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph II.E.
- F. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph II.F.
- G. Admits the allegations set forth in paragraph II.G.

III. Jurisdiction

- A. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph III.A.
- B. The allegation set forth in paragraph III.B. is a legal conclusion to which no response is required.
- C. Paragraph III.C. contains legal conclusions to which no response is necessary.

IV. Statement of Facts and Matters Complained of

- A. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.A.
- B. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.B.

- C. Admits the allegation set forth in paragraph IV.C. that MOL contracted with Dacon Logistics, LLC (“Dacon”) to ship certain containers to India, but denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations.
- D. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.D.
- E. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.E.
- F. Admits the allegations set forth in paragraph IV.F. that on or about the date and at the port of loading stated in the Complaint, there was delivered to the M/V YM MILESTONE ten containers to be transported pursuant to the terms and conditions of the MOL bill of lading identified in Exhibit C to the Complaint, in consideration of freight thereupon or agreed to be paid, to the port of discharge on or about the date described in the Complaint, which were not released absent payment by Dacon.
- G. Admits the allegations set forth in paragraph IV.G. that on or about the date and at the port of loading stated in the Complaint, there was delivered to the M/V MOL TYNE seven containers to be transported pursuant to the terms and conditions of the MOL bills of lading identified in Exhibit D to the Complaint, in consideration of freight thereupon or agreed to be paid, to the port of discharge on or about the date described in the Complaint, which were not released absent payment by Dacon.
- H. Admits the allegations set forth in paragraph IV.H. that on or about the date and at the port of loading stated in the Complaint, there was delivered to the M/V MOL PARAMOUNT three containers to be transported pursuant to the terms and conditions of the MOL bill of lading identified in Exhibit E to the Complaint, in consideration of

freight thereupon or agreed to be paid, to the port of discharge on or about the date described in the Complaint, which were not released absent payment by Dacon.

- I. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph IV.I.
- I. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second paragraph IV.I, except admits that MOL is charging detention fees until full payment for freight and charges has been received or resolved and the cargo is released.
- J. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.J.
- K. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.K.
- L. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.L, except admits that the matter has not been resolved with MOL and detention fees continue to be incurred.
- M. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.M.
- N. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph IV.N.

V. Violations of the Shipping Act

- A. The allegations set forth in paragraph V.A. are legal conclusions to which no response is required.

- (a) Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph V.A(a).
- (b) Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph V.A(b).
- (c) Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph V.A(c).
- (d) Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph V.A(d), and avers that the statement concerning violation of the Shipping Act is a legal conclusion to which no answer is required.

VI. Injury to Century Metal

- A. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph VI.A.

VII. Prayer for Relief

- A. No response is required to Complainant's Prayer for Relief.

VIII. Alternative Dispute Resolution

- A. Admit that the parties have not engaged in alternative dispute resolution procedures prior to the filing of the Complaint.

IX. Place of Hearing

- A. No response is required to the request set forth in paragraph IX.A.

AFFIRMATIVE DEFENSES

- 1. The Complaint fails to state a valid cause of action against MOL under the Shipping Act.

2. MOL reserves the right to seek enforcement of any applicable forum selection clause and/or choice of law clause contained in the bill of lading which constitutes the contract of carriage governing the shipments which are the subject of this action.

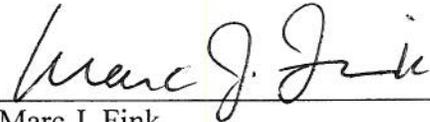
WHEREFORE, Respondent MOL respectfully requests the following relief:

- a. Entry of judgment dismissing the Complaint; and
- b. Such further or additional relief as the Commission may deem just and appropriate.

Respectfully submitted,



Kevin J. Hartmann
Hae Woen Grace Bae
MOL (America) Inc.
160 Fieldcrest Avenue
Edison, NJ 07020
Tel: (732) 512-5200
Fax: (732) 512-5290



Marc J. Fink
Cozen O'Connor
1627 I Street, N.W, Suite 1100
Washington, D.C. 20006
Tel: (202) 463-2503
Fax: (202) 618-4868

*Attorneys for Respondent
Mitsui O.S.K. Lines, Ltd.*

December 5, 2012

Certificate of Service

I hereby certify that I have this 5th day of December, 2012, served a copy of the foregoing Answer of Respondent Mitsui OSK Lines to Complaint upon the following by first class mail:

Brian D. Rich, Esq.
Halloran & Sage, LLP
225 Asylum Street
Hartford, CT 06103
(also served via e-mail at rich@halloran-sage.com)

Dacon Logistics, LLC
31 Mountain Boulevard
Warren, NJ 07059

Great American Alliance Insurance Company
and Avalon Risk Management, Inc.
c/o Theodore H. Adkinson
Andrew D. Kehagiaras
Roberts & Kehagiaras LLP
One World Trade Center, Suite 2350
Long Beach, CA 90831

Hapag Lloyd (America) Inc.
c/o Wayne R. Rohde
Cozen O'Connor
1627 I Street, NW, Suite 1100
Washington, DC 20006


Marc J. Fink