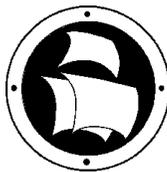


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February 5, 2015

Honorable Erin M. Wirth  
Administrative Law Judge  
Federal Maritime Commission  
800 North Capital Street, N.M.  
Washington, D.C. 20573-0001

*Via email to judges@fmc.gov and secretary@fmc.gov*

## **RE: Docket No. 14-10: Econocaribe Consolidators, Inc. v. Amoy International, LLC Objection to Respondent's Request to File a Supplemental Response**

Dear Judge Wirth,

Complainant, Econocaribe Consolidators, Inc. ("Econocaribe") Opposes, and respectfully requests that your Honor deny, Respondent Amoy International, LLC's ("Amoy's") February 3, 2015 request to file a supplemental response.

Rule 46 C.F.R. § 502.70(d) requires the showing of "extraordinary circumstances" for the filing of a supplemental response. Econocaribe believes that extraordinary circumstances have not been indicated by Amoy in its February 3, 2015 letter.

### **1. Econocaribe did not violate 46 C.F.R. §502.70(c)**

Econocaribe did not raise any new grounds for relief. The word ground means "a sufficient legal basis for granting the relief sought" *Sanders v. United States*, 373 U.S. 1, 16 (1963). "[I]dential grounds may often be proved by different factual allegations." *Id.* Here the ground upon which Econocaribe has consistently sought relief is that Amoy knowingly misdeclared cargo. Initially, Econocaribe sought to have Amoy's knowledge imputed from its employee's actual knowledge. Now, additionally, Econocaribe points out Amoy's constructive knowledge arising from its capacity as a used tire dealer. This is a new factual *allegation* rather than a different ground for relief.

Econocaribe did not present matters that do not relate to Amoy's response. Econocaribe presented only six new exhibits: (1) Econocaribe's Tariff, (2) Amoy's Internet statement that it dealt in used rubber, (3) Amoy's Internet statement that it had four containers of used tires for sale, (4) a federal complaint in which Amoy was sued for violations of the Shipping Act, (5) Econocaribe's correspondence with Amoy in November 2013, and (6) a Catalogue of Goods Prohibited from Import (into China). They are all related to Amoy's response, as your Honor can see from Econocaribe's reply brief.

Econocaribe's rewritten ("new", per Amoy) statement of facts is intended simply to compromise with what Amoy has disputed. Because some of Econocaribe's statements of facts were disputed by Amoy in its Opposition Brief, Econocaribe simply removed the disputed facts and presented facts not disputed in Amoy's Opposition Brief.

The number of pages of Exhibits Econocaribe submitted in its Reply Brief is not relevant in determining whether Econocaribe violated 46 C.F.R. § 502.70(c). Exhibit 1 (Econocaribe's Tariff) is 62 pages alone. But the relevant provisions in that Tariff are less than a page.

## **2. Econocaribe did not make any misrepresentations to the Commission**

Econocaribe only received an unsigned copy of Melissa Chen's Declaration from Amoy's counsel. *See* Exhibit A. If the Commission received a signed copy, then the truth speaks for itself. Amoy does not need to file a reply simply to prove to Commission that the filed Declaration was signed.

The printouts from the internet are Amoy's own statements. If Amoy seeks to contradict itself in the requested supplemental reply, Econocaribe will seek to reopen the discovery, subpoena the website servers for proof that Amoy did post all these items, and to depose Amoy and Krystal Lee.

Econocaribe did not violate the Commission's Rules of Practice. There exist no extraordinary circumstances warranting a supplemental response. Therefore, Econocaribe respectfully request your Honor to deny Amoy's request.

Sincerely,  
**THE MOONEY LAW FIRM, LLC**



Neil Mooney, Esq.  
*For the firm*

NBM

# **Exhibit A**

**BEFORE THE  
FEDERAL MARITIME COMMISSION**

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**DOCKET NO. 14 -10**

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**ECONOCARIBE CONSOLIDATORS, INC.**

**COMPLAINANT**

**V.**

**AMOY INTERNATIONAL, LLC.**

**RESPONDENT**

---

**OPPOSITION TO MOTION FOR PARTIAL SUMMARY JUDGMENT**

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**DECLARATION OF MELISSA CHEN**

I, Melissa Chen, declare as follows:

1. I am over 18 years of age and competent to make this affidavit.
2. I am the owner of Amoy International, L.L.C. (“Amoy”) and its Custodian of Records. If called as a witness, I could and would competently testify to the following of my own personal knowledge in a court of law.

support my belief that Krystal did not misdeclare the cargo wilfully or that she colluded with Mr. Chen.

32. Except for documents that were produced by Econocaribe in its Rule 26 disclosure, the documents that are attached as exhibits to my declaration are all business records maintained by Amoy in the course of its business.

I declare under penalty of perjury of the law of the United States of America that the foregoing is true and correct.

Executed on January 19, 2015

---

Melissa Chen

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **OPPOSITION TO MOTION FOR PARTIAL SUMMARY JUDGMENT - DECLARATION OF MELISSA CHEN** was sent to the below-mentioned counsel via email on January \_\_\_\_, 2015.

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Joseph N. Mirkovich