

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 14 -10

ECONOCARIBE CONSOLIDATORS, INC.

COMPLAINANT

V.

AMOY INTERNATIONAL, LLC.

RESPONDENT

MOTION TO COMPEL DISCOVERY

Pursuant to 46 C.F.R. § 502.210, Complainant, Econocaribe Consolidators, Inc. ("Econocaribe"), by and through the undersigned counsel, hereby files this Motion to Compel Respondent, Amoy International, LLC ("Amoy") to provide documents requested in Econocaribe's First Request for Production. In support thereof, Complaint States as follows:

MEMORANDUM OF LAW IN SUPPORT OF COMPLAINANT'S MOTION

RELEVANT PRODUCTION REQUESTS

The relevant Econocaribe's requests and Amoy's corresponding responses are attached hereto as Exhibit A as a supporting document. For the ease of discussion, Econocaribe's requests and Amoy's responses are reproduced verbatim as follows:

Econocaribe's Request No. 1:

Personnel files of Krystal Lee, including any reprimand or disciplinary actions placed on her personnel files, reasons for such reprimand or disciplinary actions.

Amoy's Response:

Objection. The request seeks information that is protected by Ms. Lee's right to privacy. "Personnel records, because of privacy interests involved, should not be ordered produced excepted upon a compelling showing of relevancy." *Miller v. Federal Express Corp.*, 186 F.R.D. 376, 384 (W.D. Tenn 1999).

Econocaribe's Request No. 2:

Personnel files of Gaby, including any reprimand or disciplinary actions placed on her personnel files, reasons for such reprimand or disciplinary actions.

Amoy's Response:

Objection. The request seeks information that is protected by Gaby's right to privacy. "Personnel records, because of privacy interests involved, should not be ordered produced excepted upon a compelling showing of relevancy." *Miller v. Federal Express Corp.*, 186 F.R.D. 376, 384 (W.D. Tenn 1999).

LEGAL STANDARD

46 C.F.R. § 502.201 (a) states that "In proceedings under this part, for situations which are not covered by a specific Commission rule, the Federal Rules of Civil Procedure will be followed to the extent that they are consistent with sound administrative practice." *See also Mitsui O.S.K. Lines Ltd. v. Global Link Logistics, Inc.*, 2011 WL 7144008, at *34 (F.M.C. 2011). As to scope of discovery, both F.C.R.P. 26(b) and 46 C.F.R. § 502.201 (e) provide that any nonprivileged matter that is relevant to any party's claim or defense is discoverable and "relevant information need not be admissible at hearing if the discovery appears reasonably calculated to lead to the discovery of admissible evidence." F.C.R.P. 26(b) and 46 C.F.R. § 502.201 (e).

Personnel files are at most confidential but not privileged. Confidential information is not exempted from discovery according to either Commission's rules or FCRP. *See Jones v. Wet Seal Retail, Inc.*, 245 F.R.D. 724, 726 (D. Kan. 2007)("A concern for protecting confidentiality does not equate to privilege.").

As Amoy cites, "[p]ersonnel records, because of privacy interests involved, should not be ordered produced excepted upon a compelling showing of relevancy," *Miller v. Federal Express Corp.*, 186 F.R.D. 376, 384 (W.D. Tenn 1999). The right to privacy may, nevertheless, be invaded for litigation purposes. *See Ragge v. MCA/Universal Studios*, 165 F.R.D. 601, 604-05 (C.D. Cal. 1995)(citing *Cook v. Yellow Freight System, Inc.*, 132 F.R.D. 548, 551 (E.D.Cal.1990)(discussing the appropriateness of balancing the right to privacy with litigation goals). Even when a balance is struck, the "scope of disclosure will be narrowly circumscribed; such an invasion of the right to privacy must be drawn with narrow specificity and is permitted only to the extent necessary for a fair resolution of the lawsuit." *Ragge*, 165 F.R.D. at 604-05 (C.D. Cal. 1995).

ARGUMENTS

I. Krystal Lee's and Gaby's Rights to Privacy are not Shielded from Discovery.

In California, the right to privacy is set forth in Article I, Section I of the California Constitution. It is not an absolute right, but a right subject to invasion depending upon the circumstances. California Supreme Court's ruling in *Heller v. Norcal Mut. Ins. Co.* is particular on point:

"when determining the existence (or not) of a constitutionally protected claim, we must weigh the severity of each potential invasion of privacy: 'No community could function if every intrusion into the realm of private action, no matter how slight or trivial, gave rise to a cause of action for invasion of privacy.... Actionable invasions of privacy must be sufficiently serious in their nature, scope, and actual or potential impact to constitute an egregious breach of the social norms underlying the privacy right. Thus, the extent and gravity of the invasion is an indispensable consideration in assessing an alleged invasion of privacy.'"

Heller v. Norcal Mut. Ins. Co., 8 Cal. 4th 30, 44, 876 P.2d 999, 1007 (1994). Matters that would otherwise be protected by the constitutional privacy right are discoverable only if "directly relevant to the plaintiff's claim and essential to the fair resolution of the lawsuit." *Id.* at 1017, *see*

also In re Haw. Corp., 88 F.R.D. 518, 520 (D. Haw. 1980)(acknowledging that strong public policy against disclosure of personnel files exists, still allowing discovery because the material sought is "clearly relevant," and the need for discovery is compelling because the information sought is not otherwise readily obtainable.).

II. Krystal Lee's and Gaby's Personnel Files are Directly Relevant to Econocaribe's Claims.

Relevance is broadly defined in both rules of practice and rules of evidence. *See* F.C.R.P. Rule 26(b)("relevant information need not be admissible at the trial to if the discovery appears reasonably calculated to lead to the discovery of admissible evidence"), 46 C.F.R. § 502.210(e) ("relevant information need not be admissible at hearing if the discovery appears reasonably calculated to lead to the discovery of admissible evidence"), and F.R.E. Rule 401("Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action."). Relevancy should be "construed liberally and with common sense' and discovery should be allowed unless the information sought has no conceivable bearing on the case." *Soto v. City of Concord*, 162 F.R.D. 603, 610 (N.D. Cal. 1995) (quoting *Miller v. Pancucci*, 141 F.R.D. 292, 296 (C.D. Cal. 1992), *see also Ragge v. MCA/Universal*, 165 F.R.D. 601, 605 (C.D. Cal. 1995)("Discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of this action.").

Krystal Lee's and Gaby's personnel files are directly related to Econocaribe's claims. Econocaribe claims that Amoy violated 46 U.S.C. § 41104(2)(A), 46 U.S.C. § 41102(c), 46 C.F.R. § 515.31(e), Sections 10(a)(1), 10(b)(1) and 10 b(2)(A) of the Shipping Act of 1984, as amended. Econocaribe's claims will be supported by evidence that when Krystal Lee and/or

Gaby made the booking with Econocaribe and misdeclared the cargo, they knew or should have known that the cargo was in fact used tires.

Econocaribe's suspect in Krystal Lee and/or Gaby's knowledge in the nature of cargo is not unfounded. Amoy's President Melissa Chen in several emails told Econocaribe that Krystal Lee made the "unauthorized booking" Melissa Chen email dated September 26, 2013, Exhibit E; that Krystal Lee had "cause big problems with other shipments too and we have lost way too much money in past 2 years, law suits, penalties and etc." Melissa Chen email dated April 15, 2014. Exhibit F; that Amoy "just took care of lawsuits with MSC and Zim due to previous losses with similar problem caused by the same sales [Krystal Lee]", Melissa Chen email dated May 9, 2014, Exhibit G. Most importantly, as set forth in John Kamada's Affidavit submitted in support of Econocaribe's Motion of Partial Summary Judgment, John Kamada was told by Melissa Chen that Krystal Lee had provided false information to other carriers and caused Amoy to be sued; that Krystal Lee colluded with the shipper of the cargo and she was terminated because of this misconduct. *See* Exhibit H. Additionally, as Econocaribe has submitted in its Reply Brief in its Motion for Partial Summary Judgment, Amoy offered to sell four containers of used tires and claimed to be a used rubber dealer. Krystal Lee was listed as the contact for these advertisements. *See* Exhibit I.

As to Gaby's personnel files, Econocaribe suspects that she might have knowledge as to the nature of cargo because she was involved in the booking yet Melissa Chen said that "no one else [other than Krystal Lee] is involved in this booking." Gaby's email dated May 24, 2013, Exhibit J; and Melissa Chen email dated September 26, 2013, Exhibit E.

III. The Information Sought is not Otherwise Readily Obtainable.

Amoy is the owner of Krystal Lee's and Gaby's personnel files. Econocaribe cannot get these files from somebody else. Although Econocaribe may be able to get the requested information through subpoenaed depositions on Krystal Lee and Gaby, new discovery request is foreclosed. Further, Krystal Lee and/or Gaby might very well assert Fifth Amendment Right Against Self-Incrimination to avoid disclosure. Now Melissa Chen disputes with John Kamada's sworn statement in her Declaration (Exhibit K), if Econocaribe cannot get unspoiled personnel files from Amoy, Econocaribe may be left without redress to prove some of its claims.

IV. The Requests are Narrowly Tailored to Econocaribe's Claims

Because the relevancy and unavailability from other sources of the requested information, the litigation need outweighs these employee's privacy rights. *See Ragge* 165 F.R.D. at 604-05 (C.D. Cal. 1995). Even if a balance is struck, the scope of disclosure can narrowly circumscribed so that the invasion of the right to privacy be drawn "with narrow specificity" and permitted "to the extent necessary for a fair resolution of the lawsuit." *Id.* Econocaribe's requests are narrowly tailored to disciplinary actions, admission after incidents of misdeclaration, involvement in prior litigation, etc. Usually courts will allow narrowly tailored request. *See Id.* at 603-04 (Disclosure of documents in the "personnel files pertaining to promotions or demotions, disciplinary proceedings, work performance reviews or evaluations, employee and/or customer complaints" is "not unusual or unexpected" because "by its nature," the requested information does not pertain to "sexual, health or financial matters, areas generally considered to be private or confidential").

RELIEF SOUGHT

Krystal Lee's and Gaby's personnel files are directly related to Econocaribe's claims and outweigh any privacy interests they might have. The requested information is narrowly tailored to information courts usually allow disclosure such as disciplinary actions, admission after incidents of misdeclaration, involvement in prior litigation, etc. Therefore, Econocaribe respectfully requests Commission to GRANT this motion to compel Amoy to produce Krystal Lee's and Gaby's personnel files.

In addition to ordering immediate compliance with discovery requests, Commission should award Econocaribe its reasonable expenses in making this motion as sanctions, including attorney's fees, as a result of Amoy's unreasonable failure to fulfill its obligations under Commission's Rule of Practice.

SUPPORTING PAPERS

This motion is based on the following exhibits, on all of the papers and records already on file in this action, and on whatever evidence and argument may be allowed at any hearing on this motion.

Exhibit A: Amoy's Response to Econocaribe's First Requests to Produce Documents.

Exhibit B: Declaration of Neil B. Mooney as to Parties' Good Faith Conference.

Exhibit C: Letter dated November 13, 2014 from Neil B. Mooney to Joe Mirkovich.

Exhibit D: Joe Mirkovich's email dated December 16, 2014.

Exhibit E: Melissa Chen email dated September 26, 2013.

Exhibit F: Melissa Chen email dated April 15, 2014.

Exhibit G: Melissa Chen email dated May 9, 2014.

Exhibit H: John Kamada's Affidavit submitted in support of Econocaribe's Motion of Partial Summary Judgment.

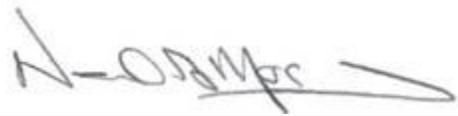
Exhibit I: Amoy's offer for sale four containers of used tires with Krystal Lee as contact person.

Exhibit J: Gaby's email in booking the subject shipment.

Exhibit K: Melissa Chen's unsigned Declaration submitted in opposing Econocaribe's Motion of Partial Summary Judgment.

DATED: February 9, 2015

THE MOONEY LAW FIRM, LLC

A handwritten signature in black ink, appearing to read "Neil B. Mooney", is written over a horizontal line.

Neil B. Mooney, Esq.

Fla. Bar No. 0169463

nmooney@customscourt.com

1911 Capital Circle N.E.

Tallahassee, FL 32308

Tel. 850-893-0670

Fax. 850-391-4228

Counsel for Complainant

Econocaribe, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMPLAINANT'S MOTION TO COMPEL DISCOVERY** was sent to the below-mentioned counsel via email on February 9, 2015.

Joseph N. Mirkovich, Esq.
RUSSELL MIRKOVICH & MORROW
Email: jmirkovich@rumlaw.com
Attorneys for Respondent
AMOY INTERNATIONAL LLC.

A handwritten signature in black ink, appearing to read "N. Mooney", is written over a horizontal line.

Neil B. Mooney, Esq.

Exhibit A

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 14 -10

ECONOCARIBE CONSOLIDATORS, INC.

COMPLAINANT

V.

AMOY INTERNATIONAL, LLC.

RESPONDENT

**RESPONDENT'S RESPONSE TO
COMPLAINANT'S FIRST REQUESTS TO PRODUCE DOCUMENTS**

Respondent Amoy International, LLC (“respondent” and/or “responding party”), hereby responds to Complainant Econocaribe Consolidators, Inc.’s (“complainant” and/or “requesting party”) First Requests to Produce Documents, pursuant to 46 C.F.R. § 502.201 and 206, Rule 201 and Rule 206 of the Federal maritime Commission Rules of Practice and Procedure, as follows:

INTRODUCTION

These responses are based upon diligent investigation by responding party and her counsel. However, these responses reflect only the current state of responding party's

Subject to the foregoing objections and the specific objections set forth below,
responding party responds as follows:

RESPONSE TO REQUESTS TO PRODUCE DOCUMENTS

REQUEST NO. 1:

Personnel files of Krystal Lee, including any reprimand or disciplinary actions placed on her personnel files, reasons for such reprimand or disciplinary actions.

RESPONSE TO REQUEST NO. 1:

Objection. The request seeks information that is protected by Ms. Lees' right to privacy. "Personnel records, because of privacy interests involved, should not be ordered produced excepted upon a compelling showing of relevancy." Miller v. Federal Express Corp., 186 F.R.D. 376, 384 (W.D. Tenn 1999).

REQUEST NO. 2:

Personnel files of Gaby, including any reprimand or disciplinary actions placed on her personnel files, reasons for such reprimand or disciplinary actions.

RESPONSE TO REQUEST NO. 2:

Objection. The request seeks information that is protected by Gaby's right to privacy. "Personnel records, because of privacy interests involved, should not be ordered produced excepted upon a compelling showing of relevancy." Miller v. Federal Express Corp., 186 F.R.D. 376, 384 (W.D. Tenn 1999).

[sic] **REQUEST NO. 17:**

Your entire file relating to the Cargo

RESPONSE TO REQUEST NO. 17:

See attached, Bates no.AM0153 to AMK0171.

Dated: February 2, 2015

RUSSELL, MIRKOVICH & MORROW



Joseph N. Mirkovich, Esq.
RUSSELL MIRKOVICH & MORROW
One World Trade Center, Suite 1660
Long Beach, California, 90831-1660
Telephone: (562) 436-9911
Fax: (562) 436-1897
Email: jmirkovich@rumlaw.com

Attorneys for Respondent
AMOY INTERNATIONAL LLC.

Exhibit B

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 14 -10

ECONOCARIBE CONSOLIDATORS, INC.

COMPLAINANT

V.

AMOY INTERNATIONAL, LLC.

RESPONDENT

MOTION TO COMPEL DISCOVERY

DECLARATION OF NEIL B. MOONEY

Neil Mooney, under 28 USC § 1746, declares the following.

1. I, Neil B. Mooney, am over the age of 18 and I am fully competent to testify to and have personal knowledge of the matters stated in this Declaration; every statement of fact herein or incorporated herein by reference is true and correct to the best of my knowledge, belief, and experience.

2. I submit this declaration in support of Complainant's motion seeking to compel Respondent to produce documents requested in Complainant's First Requests to Produce Documents. I am familiar with the facts and circumstances of the matters referenced in this declaration.

3. I am the counsel representing Complainant in this action. I have been involved as Complainant's counsel throughout this action, including during all aspects of discovery.

4. As a precondition to file this motion, I have conferred in good faith with Amoy's counsel, Mr. Joe Mirkovich, in an effort to obtain compliance without the necessity of a motion.

5. On or about November 3, 2014 in a teleconference, while discussing the matter of mediation, both parties agreed that they had pending discovery requests which should be propounded prior to mediation. In particular, I asked Mr. Mirkovich to produce as Krystal Lee's personnel file among other things.

6. On November 13, 2014 my firm sent a letter via email to Mr. Mirkovich requesting Amoy to supplement the production of documents mentioned in the telephonic conference. *See* Exhibit C.

7. On December 16, 2014, Mr. Mirkovich responded to Econocaribe's request. However Amoy withheld production of Krystal Lee's personnel file, citing to right to privacy. *See* Exhibit D.

8. Following this email, I had a telephonic conversation with Mr. Mirkovich in which Mr. Mirkovich indicated that Amoy would not produce its employee's personnel files without being compelled.

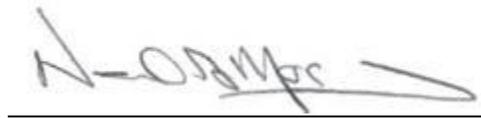
9. On January 2, 2014, Econocaribe served its First Requests to Produce Documents. The first two requests are related to personnel files of two Amoy's employees who made the subject booking with Econocaribe.

10. On February 2, 2014, Amoy returned its responses to Econocaribe's discovery requests. In its response to Econocaribe's Requests to Produce Documents, Amoy refused to

produce personnel files of Krystal Lee and Gaby, who made the subject booking with Econocaribe, again, claiming that they were protected by the employees' right to privacy.

11. I have not conferred with Mr. Mirkovich regarding the production of personnel files since Amoy's service of responses, because Econocaribe justifiably believes that any effort will be futile based on Amoy's consistent resistance to produce personnel files and Mr. Mirkovich's statement that Amoy would not produce without being compelled.

12. I declare under penalty of perjury that the foregoing is true and correct. This declaration is executed by me on February 9, 2015 in Tallahassee, Florida.

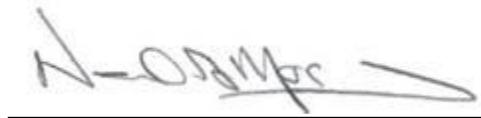


Neil B. Mooney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **MOTION TO COMPEL DISCOVERY - DECLARATION OF NEIL B. MOONEY** was sent to the below-mentioned counsel via email on February 9, 2015.

Joseph N. Mirkovich, Esq.
RUSSELL MIRKOVICH & MORROW
Email: jmirkovich@rumlaw.com
Attorneys for Respondent
AMOY INTERNATIONAL LLC.



Neil B. Mooney, Esq.

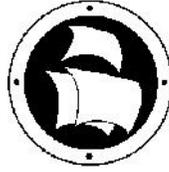
Exhibit C

THE MOONEY LAW FIRM LLC

Legal Services for the International Enterprise

www.customscourt.com

1911 Capital Circle N.E.
Tallahassee, FL 32308
Tel. (850) 893-0670
Toll Free (800) 583-0250
Miami (305) 290-5803
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Neil B. Mooney

nmooney@customscourt.com

November 13, 2014

Mr. Joseph Mirkovich
Russell, Mirkovich & Morrow
One World Trade Center, Ste. 1660
Long Beach, CA 90831

Via email to jmirkovich@rumlaw.com

**RE: Econocaribe v. Amoy
FMC Formal Docket No. 14-10**

Dear Mr. Mirkovich,

I write to you in furtherance of our November 3, 2014 teleconference with the FMC's Philip Lee. While discussing the matter of mediation we both agreed that we had pending discovery requests which should be propounded prior to mediation.

I have reviewed the documents your client has produced thus far. I do not believe that correspondence showing your clients endeavors to obtain the shipper's assistance in returning the container has been produced. Also lacking is any correspondence between Amoy's employee, Krystal Lee, who provided customer service to the shipper **as well as Krystal Lee's personnel file**. If you would, please supplement Amoy's production documents to include the aforementioned. Likewise, if you believe my client's production to be lacking or incomplete please let us know as soon as possible so we can address your request(s) without delay.

We are in receipt of Amoy's Request for Interrogatories and will have responses to you as soon as possible.

Sincerely,
THE MOONEY LAW FIRM, LLC


Neil Mooney, Esq.
For the firm

NBM/ke

Exhibit D



THE MOONEY LAW FIRM

Neil Mooney <nmooney@customscourt.com>

Depositions

Joe Mirkovich <jmirkovich@rumlaw.com>
To: Neil Mooney <nmooney@customscourt.com>

Tue, Dec 16, 2014 at 12:10 PM

Neil:

Melissa can be available for her deposition the week of January 5. We can take Kamada's, Rocke's and her deposition by video at that time. I believe that they can be taken over a 2 day period. We should start at 1200 your time because of the time difference. I'd like to start with Kamada, then Rocke and then Melissa.

Regarding verifications to interrogatories, please see 46 CFR §502.205(b)(3) and (b)(5). The responses are required to be verified and signed by the person who provides the responses. Please provide the verifications/signatures.

I see that I overlooked responding to your letter of November 13, 2014. Melissa informs me that all communications from Krystal Lee have been produced. **In addition, we will not be producing Krystal Lee's personnel file, based upon privacy rights.**

Regarding the Bills of Lading's Florida venue, I believe that venue was waived when you filed the action with the FMC.

Regards.

Joseph Mirkovich

Russell, Mirkovich & Morrow

One World Trade Center, Ste 1660

Long Beach, Ca 90831-1660

(562) 436-9911

=====

"This e-mail message is intended for the named recipient(s) above. It may contain confidential information that is privileged. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of the e-mail and any attachment(s) is strictly prohibited. If you have received this e-

mail in error, please immediately notify the sender at (562) 436-9911 or by replying to this e-mail and delete the message and any attachment(s) from your system. Thank you"

From: Neil Mooney [mailto:nmooney@customscourt.com]

Sent: Thursday, December 11, 2014 3:20 PM

[Quoted text hidden]

[Quoted text hidden]

Exhibit E

Redacted for privilege

From: John Kamada
Sent: Thursday, September 26, 2013 12:23 PM
To: Melissa / Amoy Line
Cc: Elisa Medrano; Ariel Martinez
Subject: Re: AMOY INTERNATIONAL - PAYMENT REQUEST

Hi Melissa,

Understood and thank you.

Sent from my iPhone

On Sep 26, 2013, at 12:09 PM, "Melissa / Amoy Line" <melissa@amoyline.com> wrote:

Hi John

Krystal was the person made this unauthorized booking is no longer with the company.
No one else is involved in this booking so for all related communications, please only come to me.

I will be out of LA office from Oct 17 ~ Nov 5, if any feedback comes in during that time, please email me and I will respond to you ASAP.

Thank you,

Melissa Chen

~~~~~

## **Amoy International LLC**

**[FMC License No.: 019113N] [FMC Bond No.: 8941895]**

**[China MOC License No.: MOC-NVO03586]**

14145 Proctor Ave. Suite 14 City of Industry, CA 91746 (LA Office)

Ph: (626) 855-3077 Fax: (626) 855-3078 Direct: (626) 616-2008

649 Morgan Ave, 4F3 Brooklyn NY 11222 (NY Office)

Ph: (347) 689-9255 Fax: (347) 689-9267

Website: [www.amoyline.com](http://www.amoyline.com)

**Please [click here](#) to download our ISF Form.**

~~~~~

 **Save a tree. Please don't print this e-mail unless it's really necessary! :)**

From: John Kamada [<mailto:jkamada@econocaribe.com>]
Sent: Thursday, September 26, 2013 11:26 AM
To: Melissa / Amoy Line; Elisa Medrano; Ariel Martinez
Subject: RE: AMOY INTERNATIONAL - PAYMENT REQUEST

Exhibit F

From: Melissa / Amoy Line [<mailto:melissa@amoyline.com>]
Sent: Tuesday, April 15, 2014 11:24 AM
To: Elizabeth Sanchez
Cc: John Kamada; Lygia Reciola-Bratton
Subject: RE: ECCI BKG# LAC-CNXXGG-04-439024 CARRIER BKG# 560323561

Hi Elizabeth

Krystal is no longer with the company.

For below case, please help us to negotiate the costs. the shipper vanished and we had hard time getting original supplier to accept the loads back. I have hired collection agency, attorney and all, but none of these people could be found.

It has been long time we waited to hear from MSK about this freight. if any suggestions you can help to come up and take care of this problem, please let me know. I want to solve this problem soonest possible.

the total cost listed below is really expensive and I can't afford to pay them. I know is not related to you and to the case, **but Krystal has caused big problems with other shipments too and we have lost way too much money in past 2 years, law suits, penalties and etc.**

Please help me to negotiate and I will again look for people in US can accept the container back.

thank you,

Melissa Chen

~~~~~

## **Amoy International LLC**

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[China MOC License No.: MOC-NVO03586] [US DOT : MC-859087]

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Please [click here to download our ISF Form.](#)

~~~~~

 **Save a tree. Please don't print this e-mail unless it's really necessary! :)**

Exhibit G

From: Melissa / Amoy Line [<mailto:melissa@amoyline.com>]
Sent: Friday, May 09, 2014 1:22 PM
To: John Kamada
Cc: Lygia Reciola-Bratton
Subject: RE: ECCI BKG# LAC-CNXGG-04-439024 CARRIER BKG# 560323561

Hi John

Being victim of the case, I fully understand this shipment has also caused Maersk lots of problems. We've tried everything we could in the very beginning when we suspected something wasn't going right, from tracing back to trucker to vendor and hiring attorney after the shipper, but we weren't able to get any help and we have completely lost contact with shipper.

I have just took care of lawsuits with MSC and Zim due to previous huge losses with similar problem caused by the same sales. We are struggling to getting thru recoveries at moment. When the abandonment letter was signed to Maersk last year, I was no longer expecting to receive emails instructing to taking back these containers. Maersk has these containers since last year, they were aware of the situation before even containers arrive to port, and it is up to them for letting the containers sitting at port or solving this problem sooner.

Unfortunately, I'm unable to come up with the money to cover these storages, nor taking the containers back after all these time. Please kindly advise, if any other way we can work this through.

Thank you,

Melissa Chen

Amoy International LLC

[FMC License No.: 019113N] [FMC Bond No.: 8941895]

[China MOC License No.: MOC-NVO03586] [US DOT : MC-859087]

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Website: www.amoyline.com skype: amoyline

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Exhibit H

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 14-10

ECONOCARIBE CONSOLIDATORS, INC.

COMPLAINANT

v.

AMOY INTERNATIONAL, LLC.

RESPONDENT

MOTION FOR PARTIAL SUMMARY JUDGMENT

AFFIDAVIT OF JOHN KAMADA

I, John Kamada, under penalty of perjury, set forth and attest to the following:

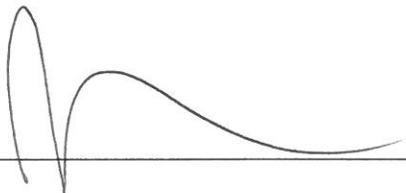
1. I am over 18 years of age and am competent to make this affidavit.
2. I am the Manager of the Los Angeles Office of Econocaribe Consolidators, Inc. ("Econocaribe") and in charge of the business in the area of California.
3. Econocaribe is a corporation organized under the laws of the State of Florida and authorized to do business in the State of Florida and California.
4. On May 20, 2013 Amoy contracted with Econocaribe for the shipment of 4 containers allegedly containing 100 packages of "Auto Parts (New)" from Oakland, CA to Xingang, China.

5. In fact, the cargo was baled used truck tires, which we knew after the cargo arrived in China and was inspected by the Chinese Customs.
6. Econocaribe's Terms and Conditions was included into said contract. The Bill of Lading states "transportation pursuant to this Bill of Lading is subject to conditions set forth in Econocaribe published tariff."
7. Econocaribe in turn contracted with Maersk Line ("Maersk") for the shipment via the vessel "CMA CGM VIVALDI," and in accordance with Amoy's instructions made Victory Maritime Service ("Victory China") at destination the consignee. Maersk took possession of the containers along with other related paperwork on or about May 29, 2013 for purposes of shipment to China.
8. The arrival date was June 17, 2013. On or about that date Chinese Customs opened the containers for inspection, and found that the contents were in fact goods prohibited entry into China, i.e. baled used truck tires. It seized the four containers from Maersk Line, the importing carrier, and Maersk's notification of this fact then went to Econocaribe and Amoy.
9. On or about May 18, 2014, I had a phone call conversation with Melissa Chen, the owner of Amoy. In the conversation, Melissa stated that this was not the first time that Amoy had shipped used tires by providing false information to other NVOCC; that the previous misdeclaration was also done by the same employee, Krystal Lee; that as a result of Krystal Lee's misconduct, Amoy had paid other NVOCC damages Amoy caused; that Krystal Lee did this and the previous misdeclaration willfully, in fact, that Krystal Lee colluded with the shipper of the cargo; that Krystal Lee was terminated because of this misconduct.

10. On July 9, 2013 Maersk informed Econocaribe that the consignee Victory China denied interest in the cargo, and that Amoy needed to nominate another shipper for the return bill of lading. Econocaribe immediately forwarded this information to Amoy.
11. On or about June 30, 2014, Chinese Customs released the four containers with the condition that it be shipped back to its country of origin.
12. Econocaribe entered into agreement with Maersk that Maersk will ship the four containers back to U.S.
13. Amoy has never nominated either a shipper or consignee for the return of the cargo, leaving Econocaribe unable to repatriate the cargo.
14. Further, Amoy has steadfastly refused to provide payment for the return freight charges and destruction costs.
15. All the emails cited in the Motion for Partial Summary Judgment were previously produced by Econocaribe. They are all business record kept in the course of a regularly conducted activity of Econocaribe.
16. The matters set forth in this Affidavit are true and correct, and they are based on my personal knowledge and review of my records associated with this case.
17. I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

FURTHER AFFIANT SAYETH NAUGHT.

Executed on this 20th day of November 2014.



John Kamada

STATE OF CALIFORNIA

COUNTY OF Los Angeles.

Sworn to (or affirmed) and subscribed before me this 17 day of December 2014 by

JOHN KAMADA . Personally ~~Known~~ X or Produced

Identification DL. . Type of Identification Produced CALIFORNIA # B5758960



Maria Villalva

Notary Public, State of California

My commission expires: JUNE 28, 2016.

Exhibit I

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Tires Scrap

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We are Amoy Line based in , USA. We are member of TradeKey.com since June, 2013. Our business is related to Rubber & Plastics industry and we specifically deal in tires scrap. Please find our product details below: Used Rubber We have Used rubber and rubber scrap available for purchase shipment is in China and needs to be purchased ASAP. Please email if interested Thank you for taking time to go through our business profile. If there are any questions, inquiries or comments, please feel free to contact us.

Related Exporters Succinite Resources Pte Ltd. [China]

We are Succinite Resources Pte Ltd. based in Qingdao , China. We are member of Tradekey.com since August, 2010. Our business is related to Automobiles industry and we specifically deal in Tyres &...

ATR Inc. [USA]

We are ATR Inc. based in Anderson , USA. We are member of Tradekey.com since November, 2010. Our business is related to Automobiles industry and we specifically deal in Used Tires. Please find ou...

Fayed Import [Egypt]

We are fayed import based in banyswef, Egypt. We are member of TradeKey.com since June, 2013. Our business is related to Rubber & Plastics industry and we specifically deal in used tires. Ple...

Qingdao Zhenshun Rubber Products Co., Ltd [China]

Locating in the west coast of Qingdao, Qingdao Zhenshun Rubber Products Co., Ltd has excellent geography situation and convenient transportation with only 30km from front port of Qingdao and 80km ...

TIREBIZ INTERNATIONAL [USA]

TireBiz International L.P is a wholesale distributor of [Chat with us] w City of Doral, near to Miami International Airport, and main h

Mid America Tire Exporters [Honduras]

We are Mid America Tire Exporters based in la lima , Honduras. We are member of Tradekey.com since November, 2011. Our business is related to Rubber & Plastics industry and we specifically de...

2MG TRADING & GENERAL MERCHANDISE [Philippines]

We are 2MG TRADING & GENERAL MERCHANDISE based in LAPU-LAPU CITY , Philippines. We are member of Tradekey.com since September, 2009. Our business is related to Industrial Machinery indust...

Ever Lucky International Investment Limited [Hong Kong]

Our company EVERLUCKY Int'l is OTR TYRE specialist from China, mainly dealing with O-T-R tires for mining, construction, harbor, and forestry use, ect. We have good cooperation with big Chines...

Suggested Exporters, Suppliers & Distributors

Exporters :

http://exporter.importershub.com/exporter/amoy-line_1349245.html

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Amoy Line

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We are Amoy Line based in USA. We are member of TradeKey.com since June, 2013. Our business is related to Rubber & Plastics industry and we specifically deal in tires scrap. Please find our product details below: Used Rubber We have Used rubber and rubber scrap available for purchase shipment is in China and needs to be purchased ASAP. Please email if interested Thank you for taking time to go through our business profile. If there are any questions, inquiries or comments, please feel free to contact us.

Contact This Company

To: Krystal Lee <Amoy Line >
*Message:

Send Message

Basic Information

Business Type: Exporters
 Main Markets: Worldwide
 Company Products / Services: tires scrap
 Year Established: 2013
 Number of Employees: 1-5

This company is registered as a free member and is not verified or authenticated by TradeKey.com

Contact Information

Company : Amoy Line
 Address : USA
 Telephone : 1-6268553077

Contact Now



Amoy International, LLC dba Amoy line

We are a US Licensed Freight Forwarder based in Los Angeles, CA. We provide a wide variety of services, which include but are not limited to: Sea / Air / Full Container / Less than Container Loads / US Domestic Transport by Rail / Trucking / Warehousing / Domestic Distribution / Customs Brokerage Services and more! Here at Amoy Line, your satisfaction is our first priority. We are well known for providing the highest quality service at affordable prices. Our experienced staff members understand the importance of your cargo and...

Address: 14145 Proctor Avenue Suite 14, POSTCODE/ZIP: 91746

Tel: 1-626-855-3077

Fax: 1-626-855-3078

Business Location: N/A

Business Directory: Rubber & Plastics>>Plastic Raw Materials>>PA

Discovery:

Turbidity Curtain Furling Lines | ABASCO LLC

turbidity curtains and diversion baffles, for skirt deployment and retrieval. For more information or to request a quote: Phone: (+1) 281.446.1500 Email: sales@abasco.com ABASCO LLC • 8561 E. NORTH BELT DRIVE • HUMBLE, TX 77396-2915, USA • 281-446

Fri, 12 Sep 2014 03:46:15

Contact GREEN LINE MARINE CARGO LLC

UAE, Sharjah, Abu Shagara car market, Etisalat, Al Jabri building 102. Phones/fax: +971 6 544 4848 +971 6 544 4849 Cellphone: +971 50 573 4275 P.o.b.: 2867 Sharjah, UAE Branch offices Russia Address: Moscow, Sevastopolsky prospekt, 117, 19. Map: Kyrgystan

Wed, 03 Sep 2014 01:33:41

Amoy Magic--Guide to Xiamen and Fujian

Fújiàn Pictorial «????» #28 Húbin Bei Lù 12/F Jiànyè Bldg. Xiàmén 361012 ?????28?????12? Tel: (592) 5073766 (592) 8877153 Fax: (592)5073767 Email: zqfsy@vip.sina.com Back to top Click thumbnails for larger images! Hover cursor over thumbnail for brief

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Tom Young Press Release - The Gas Company, LLC dba Hawaii Gas

information, please visit www.hawaiigas.com. Contact: Jill Tokunaga, VP - Sales, Marketing & Communications 808-594-5566 | Mobile 808-220-4142 jtokunaga@hawaiigas.com Additional Information Download this Release Need gas? Call 808-535-5933 for assistance

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Supplier Info

Amoy Line

[USA]

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Contact Details

Similar Products

Used Rubber

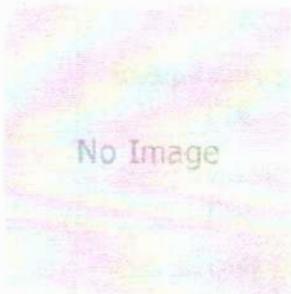
FOB Price : 100 - 300 / Ton (Negotiable) Get Latest Price

Place of Origin: USA

Minimum Order Quantity: 1 Forty-Foot Container

Supplying Ability: 4 Forty-Foot Container / Year

Payment Type: Other



View Enlarge Image

Krystal Lee

Contact now

Product Details

Company Profile

Report Suspicious Activity

Product Specifications

Brand Name : Rubber Used Tires

4 containers full of rubber which is used none of the items in the containers are new everything is used. We have scrap rubber and used tires in bales available. The origin of these items are from the USA and the shipment is located in China and needs to be purchased as soon as possible. Please call or email me if you are interested in purchasing these thank you.

Contact This Seller

To: Krystal Lee <Amoy Line >

*Message:

Message input area

Send Message

Latest products from other suppliers

Rubber Tiles
FOB Price: 0.01 - 500 / Unit (Negotiable)

Rubber Mat
FOB Price: 0.01 - 50 / Unit (Negotiable)

Rubber Paver
FOB Price: 0.01 - 50 / Unit (Negotiable)

Exhibit J

Subject: MBL INSTRUCTIONS...RE: DOC REQUEST BK SSL#: 560323561 ECI#: 04-439024
From: Gaby / Amoyline <gaby@amoyline.com>
Date: 5/24/2013 2:35 PM
To: LAFCLDocs <lafcldocs@econocaribe.com>, "KRYSTAL@AMOYLINE.COM"
<KRYSTAL@AMOYLINE.COM>
CC: 'Melissa / Amoy Line' <melissa@amoyline.com>

Hello,

Please see below MBL instructions, and please note we would like our agent in China as the direct consignment to the carrier MBL

Booking#: 560323561

MBL Shipper:

AMOY INTERNATIONAL
14145 PROCTOR AVE, SUITE 14
CITY OF INDUSTRY CA 91746

ULTIMATE MBL (CARRIERS MBL) Consignee:

VICTORY MARITIME SERVICES (CHINA) LTD
TIANJIN BRANCH
504, TOWER C, CITY CENTER, XI KANG ROAD, HE PING DISTRICT, TIANJIN, CHINA
TEL: 86-22-23336411/33/55 FAX: 86-22-23336400
CTC:Ms Liu Hui.

From OAKLAND, California to XINGANG, China

Commodity:
AUTO PARTS

Container#/Seal#:
PONU1750788/2300720 - 25PKGS/22000KGS/50CBM
MSKU6129259/2300719 - 25PKGS/22000KGS/50CBM
PONU1877619/2300718 - 25PKGS/22000KGS/50CBM
MRKU0232720/2300717 - 25PKGS/22000KGS/50CBM

AES ITN : X20130524032027
BL: TELEX
Freight: PRE-PAID

Best Regards,
Gaby

Amoy International LLC

Ph: (626) 855-3077 / Fax: (626) 855-3078

Exhibit K

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 14 -10

ECONOCARIBE CONSOLIDATORS, INC.

COMPLAINANT

V.

AMOY INTERNATIONAL, LLC.

RESPONDENT

OPPOSITION TO MOTION FOR PARTIAL SUMMARY JUDGMENT

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.

cargo. [Emphasis added.] See Exhibit “28”. Maersk’s email shows that the “best options” that it gave to Econocaribe were to find a new buyer or re-export. Re-export was Amoy’s preference. Nevertheless, Econocaribe suggested that Amoy issue a letter of abandonment.

28. Through Econocaribe’s Rule 26 disclosure, I learned that on June 9, 2014, Maersk Florida emailed the following to Kamada: “China Customs controls and decides when disposal can be arranged and for that reason, we don’t have a final invoice from Customs. On that basis, Maersk China chose to petition Customs to allow re-export process to mitigate our exposure and costs, rather than to let cargo continue to sit while Customs decides when to order disposition. See Exhibit “29”. That email was followed up by another email of June 11, from Maersk Florida stating: Maersk petitioned disposal from China Customs back in March, 2014, and so far no feedback. See Exhibit “30”. When I read this email, I was surprised to learn that Maersk waited 9 months after the cargo arrived before it petitioned China Customs regarding the disposal of the cargo.

29. On or about May 18, 2014, I had a telephone conference with Kamada. His recollection of our conversation is incorrect. I did not tell him that “this was

not the first time that Amoy had shipped used tires by providing false information to another NVOCC”; or that “the previous misdeclaration was also done by the same employee Krystal Lee” or “that as a result of Krystal Lee’s misconduct, Amoy paid other NVOCC damages Amoy caused”; or that she did “the previous misdeclaration willfully.” Krystal Lee was involved in another incident, where she was contacted by Clare Anderson of Sea Consulting, LLC to book 16 containers of wood pulp to Greece in October, 2012. 5 containers were shipped on an MSC vessel and 11 containers were shipped on a ZIM vessel. It turned out that the containers contained reusable paper and wet waste paper instead of wood pulp. Because of the discrepancy, MSC and ZIM made claims against Amoy, which it settled with these carriers. Mr Anderson was found guilty of wire fraud in connection with this and other shipments that he made and was sentenced for that crime. See Exhibit “31”; Request for Judicial Notice. Krystal was not charged with a crime. She committed no misconduct. The previous incident did not involve an NVOCC, but ocean carriers; it did not involve used tires, but reusable paper and wet waste paper. There were no other incidents involving Krystal and other NVOCCs or misdeclarations or baled tires.

30. Kamada is also wrong in his recollection that I told him “Krystal Lee did

this [meaning the Econocaribe transaction] . . . willfully” or “that Krystal Lee colluded with the shipper of the cargo; that Krystal Lee was terminated because of this misconduct.” I did not tell him that. I know of no facts that Krystal either wilfully misdeclared the cargo or that she colluded with the shipper John Chen to misdeclare the cargo. She handled the booking as she would have for other bookings. She received a packing slip and commercial invoice from the shipper, see Exhibits “4” and “5”. He sent her a completed Amoy Shipper’s Letter of Instruction, Exhibit “6”. He also sent her a photograph of the cargo that she requested, which is found in Exhibit “32”. Amoy believed that this was a photograph of the cargo.

31. In preparing this Affidavit, I was asked by Amoy’s attorney, Mr. Mirkovich to see if there were any more documents or emails pertaining to the booking made by Mr. Chen. Amoy no longer has Krystal’s computer because it was attacked by a virus. As a result, I accessed her back-up Gmail account and found additional emails that were exchanged with Mr. Chen. See Exhibit “32”. These emails begin on May 17, 2013 and extend to May 24, 2013. They include emails that transmitted the packing list, Exhibit “4” and the commercial invoice, Exhibit “5”. A requested picture of the cargo was also included. Part of Exhibit “32” also includes emails found in Exhibit 1. These emails and attachments

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