



12-10

COMPLAINT



ORIGINAL

(Before the Federal Maritime Commission)

SBI Inc. 8401 Lake Worth Road Suite 122 Lake Worth, Florida 33467 by Ronald Penn, President, a duly registered corporation in the state of Florida, USA by Ronald Penn, President and Chief Executive Officer.

vs.

Mr. Howard Finkel c/o Cosco Container Lines Americas 100 Lightening Way, Seacaucus, New Jersey 07094.

Hearing is desired in the State of Florida, USA.

Matters of Complaint: Through no fault of the shipper, 4 refrigerated containers originating from the USA port of Wilmington, NC consisting of USA frozen poultry belonging to the Shipper were detained since May/June 2012 in the China port of Xingang. After unsuccessful discussion with respondents, on 04 September, shipper contacted Jason Guthrie for purposes of informal dispute resolution at the Office of Consumer Affairs and Dispute Resolution Services Federal Maritime Commission 800 North Capitol Street, NW Washington, DC 20573 (202) 523-4597. The correspondence shall show that during informal discussion, shipper made numerous good faith attempts to resolve the issue but progress was not possible due to refusal to deal or negotiate by the respondent:

- A. From 04 September until 21 November 2012, Cosco Container Lines America failed to actively participate in the mitigation process. They utterly refused and failed to assist or provide any useful information necessary to resolve the issue.
- B. Cosco Container Lines America failed to provide any of the following:
 - *Schedule of charges including onward carriage to Hong Kong including 25 days allowance.
 - *Reply to Shipper's cash offer of \$104,000.00 dated 31 October and submitted to Jason Guthrie as part of the mitigation process.
 - *Reply to Shippers request of 06 November requesting missing replies.
 - * Reply to various other requests for cooperation as made by Shipper.
 - * To demonstrate any goodwill or desire to reach a settlement.

As the result of Cosco Lines unreasonable refusal to negotiate a settlement nor provide any adjustment, shipper remains unable to retrieve his cargo valued at USD\$ 164,176.81.

Prohibited Acts: Shipper cites the following prohibited acts of the Ocean Shipping Reform Act 1988 as modified and alleges defendant is in violation of the following as per **Section 10** of the Act:

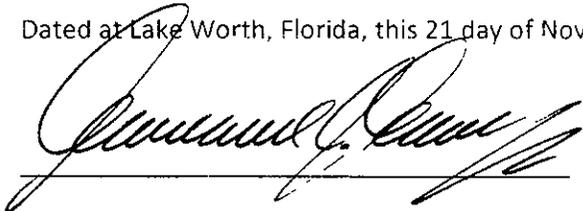
- A. 10b1
- B. 10b3
- C. 10b4
- D. 10b4D
- E. 10b4E
- F. 10b10

In each section of the above prohibited acts, it is alleged that through the use of discriminatory practices, Cosco unreasonably refused to deal or negotiate a settlement thereby blocking shipper's access to his cargo causing shipper a total loss in the amount of USD\$ 164,176.81.

Complainant has been injured to its damage in the amount of USD\$ 164,176.81.

Wherefore, complainant prays that respondent be required to answer the charges herein; that after due hearing, an order be made commanding said respondent(s) to cease and desist from the aforesaid violations of said act(s); to establish and put in force such practices as the Commission determines to be lawful and reasonable; to pay said complainant by way of reparations for the unlawful conduct herein described the sum of \$164,176.81, with interest and attorney fees (or time spent fees) or other such sum as the Commission may determine to be proper as an award of reparation; and that such other and further order or orders be made as the Commission determines to be proper in the premises.

Dated at Lake Worth, Florida, this 21 day of November 2012.



SBI International, Inc.

Ronald S. Penn, President and CEO

The complainant, President and CEO of SBI International, Inc. and is the person who signed the foregoing complaint has read the complaint and the facts stated herein, upon information received from others, believes to be true.

Subscribed and sworn to before me, a notary public in and for the State of Florida, County of Palm Beach of this 21 day of November 2012.

(Seal) 

Notary Public

My Commission Expires:

