

(S E R V E D)
(March 5, 2008)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

Docket No. 08-01

NATHAN FREEMAN

v.

**MEDITERRANEAN SHIPPING CO. S.A.
AND SHIPCO TRANSPORT, INC.**

Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission ("Commission") by Nathan Freeman. Complainant asserts that he is an individual residing in New York, New York. Complainant alleges that Respondent, Mediterranean Shipping Company S.A. ("MSC"), is an ocean common carrier with an office in New York, New York, and that Respondent, Shipco Transport, Inc. ("Shipco"), is a non-vessel-operating common carrier with offices in Bayonne, New Jersey and North Charleston, South Carolina.

Complainant asserts that he engaged a freight forwarder to arrange for the transportation of a shipment consisting of two containers of scrap plastic, and that the

forwarder engaged Respondent Shipco to carry such shipment from Jacksonville, Florida to the port of Cotonou, Benin. Complainant also asserts that Shipco, in turn, arranged with Respondent MSC to carry Complainant's shipment. Complainant avers that his shipment arrived at the port of Cotonou, Benin on or about July 6, 2006. Complainant claims that, from approximately June 2006 to November 2006, his customs broker in Cotonou and Complainant's wife, Christiane Freeman, the designated consignee of the shipment and resident of Cotonou, made numerous demands to Respondents and their agents to provide the original bill of lading for Complainant's shipment. Complainant contends that Respondents refused to issue the original bill of lading.

Complainant Freeman asserts that the port of Cotonou officials require production of an original bill of lading prior to releasing the shipment to Complainant, his wife, or his customs broker, and that Respondents knew, or should have known, of this requirement. Complainant also asserts that MSC wrongfully claimed that Complainant owed MSC approximately \$20,000 for demurrage charges in connection with Complainant's shipment and that MSC refused to release the shipment unless payment of the alleged demurrage was made. Complainant claims that, in November 2006, the port of Cotonou customs officials "confiscated and seized" Complainant's shipment due to Complainant's inability to acquire from Respondents the original bill of lading necessary to take possession of the shipment.

Complainant alleges that Respondents violated the Shipping Act of 1984 ("the

Shipping Act”) by refusing to issue an original bill of lading to Complainant thereby preventing Complainant from taking possession of the shipment, and that Respondents’ refusal directly caused Complainant’s loss of his entire shipment and property. Complainant also alleges that Respondents “unreasonably, fraudulently and deceitfully attempted to extort alleged demurrage charges” from Complainant in January 2007, even though Respondents knew, or should have known, that the shipment had been previously confiscated by the port of Cotonou customs officials. Complainant asserts that the foregoing activities by Respondents constitute an unreasonable practice related to the delivery of property in violation of 46 U.S.C. §41102(c) (formerly §10(d)(1) of the Shipping Act).

Complainant claims that he has been injured and damaged in the sum of \$80,000.00 for the value of the property of the shipment and seeks this amount as reparations, or in the event of insufficient evidence of such loss, seeks \$21,367.00 as reimbursement of ocean freight, other shipment charges, and cost of the property. Complainant also seeks an award of reasonable attorney’s fees and punitive damages, to be determined by the Commission, for the willful, wrongful, and illegal conduct of Respondents in their refusal to issue an original bill of lading and release Complainant’s property.

Complainant requests that the Commission require Respondents to: (1) answer the charges in the subject complaint; (2) cease and desist from the aforesaid violation of the Shipping Act; (3) establish and put in force such practices as the Commission

determines to be lawful and reasonable; and (4) pay to Complainant by way of reparations the sum of \$80,000.00 with interest, attorney's fees and punitive damages, or such other sum as the Commission determines. Additionally, Complainant requests that the Commission issue further order(s) as it determines to be proper.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 C.F.R. 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 C.F.R. 502.61, the initial decision of the presiding officer in this proceeding shall be issued by March 5, 2009, and the final decision of the Commission shall be issued by July 3, 2009.


Karen V. Gregory
Assistant Secretary