

BEFORE THE  
FEDERAL MARITIME COMMISSION

Acme Freight Services Corp.,  
*Complainant,*

v.

Total Terminals International, LLC,  
*Respondent.*

Docket No. 22-07

**TOTAL TERMINAL INTERNATIONAL LLC'S**  
**ANSWER AND DEFENSES**

Respondent Total Terminals International, LLC (“TTI”) hereby submits its Answer and Defenses to Complainant ACME Freight Services Corp.’s Complaint.

## **ANSWER**

TTI denies all allegations contained in the headings or unnumbered paragraphs in the Complaint. In response to the numbered allegations in the Complaint, TTI states:

### **I. COMPLAINANT**

1. TTI denies the allegations of Paragraph 1 of the Verified Complaint for lack of knowledge or information sufficient to form a belief as to the truth of the matter(s) asserted.

### **II. RESPONDENT**

2. TTI denies that it is a corporation organized and existing under the laws of the State of Delaware. TTI's admits that its principal place of business is 301 Mediterranean Way, Long Beach, CA 90802. The allegations in the second sentence of Paragraph 2 of the Verified Complaint constitute a legal assertion as to which no response is required.

### **III. JURISDICTION AND VENUE**

3. The allegation in Paragraph 3 of the Verified Complaint constitutes a legal assertion as to which no response is required.

4. The allegations of Paragraph 4 of the Verified Complaint consist of ACME's description and characterization of the instant action, which do not require a response. To the extent a response is required, TTI denies the allegations in Paragraph 4 of the Verified Complaint and denies that ACME has stated any claim or is entitled to relief.

5. The allegations of Paragraph 5 of the Verified Complaint constitute a legal assertion as to which no response is required.

6. The allegations of Paragraph 6 of the Verified Complaint constitute legal assertions as to which no response is required. To the extent a response is required, TTI denies the allegations in Paragraph 6 of the Verified Complaint and denies that ACME has stated any claim or is entitled to relief.

#### **IV. FACTUAL ALLEGATIONS**

7. TTI admits that five containers were delivered to the Port of Long Beach under a bill of lading number MEDUPM708400 with ACME listed as the notify party. The remaining allegations contained in Paragraph 7 of the Verified Complaint address the actions of a non-party and do not require a response by TTI. To the extent a response is required, TTI denies the remaining allegations of Paragraph 7 for lack

of knowledge or information sufficient to form a belief as to the truth of the matter(s) asserted.

8. The allegations contained in Paragraph 8 of the Verified Complaint, many of which are based on “information and belief” and not knowledge, address the actions of a non-parties and do not require a response by TTI. To the extent a response by TTI is required, TTI admits that 5 containers were delivered to the terminal while on CBP hold. TTI denies the remaining allegations of Paragraph 8 of the Verified Complaint for lack of knowledge or information sufficient to form a belief as to the truth of the matter(s) asserted.

9. TTI denies the last clause of Paragraph 9 of the Verified Complaint that the containers “remained on government hold imposed by CBP and were unavailable for pick up or release” based on a lack of knowledge or information sufficient to form a belief as to the truth of the matter(s) asserted. TTI admits the remaining allegations in Paragraph 9.

10. TTI admits that the containers left the terminal in November 2021. TTI denies the existence and timing of the Emergency Action notice based on a lack of knowledge or information sufficient to form a

belief as to the truth of the matter(s) asserted. TTI denies the remaining allegations in Paragraph 10 of the Verified Complaint, including the exact date of departure.

11. TTI denies the allegations in Paragraph 11 of the Verified Complaint.

12. TTI denies the allegations in Paragraph 12 of the Verified Complaint.

13. TTI denies the allegations in Paragraph 13 of the Verified Complaint. While there was correspondence between ACME and TTI, TTI denies ACME's characterization of its content.

14. TTI denies the allegations in Paragraph 14 of the Verified Complaint. While there was correspondence between ACME and TTI, TTI denies ACME's characterization of its content.

## **V. VIOLATIONS OF THE SHIPPING ACT**

15. Paragraph 15 of the Verified Complaint contains legal assertions that require no response.

16. Paragraph 16 of the Verified Complaint contains legal assertions that require no response.

17. Paragraph 17 of the Verified Complaint contains legal assertions that require no response. To the extent they require a response, TTI denies the allegations

18. Paragraph 18 of the Verified Complaint contains legal assertions that require no response. To the extent they require a response, TTI denies the allegations.

19. Paragraph 19 of the Verified Complaint contains legal assertions that require no response. To the extent they require a response, TTI denies the allegations.

20. Paragraph 20 of the Verified Complaint contains legal assertions that require no response. To the extent they require a response, TTI denies the allegations.

## **VI. CAUSATION AND INJURY TO COMPLAINANT**

21. Paragraph 21 of the Verified Complaint contains legal assertions that require no response. To the extent they require a response, TTI denies that ACME has suffered any injury proximately caused TTI.

## **VII. ALTERNATIVE DISPUTE RESOLUTION**

22. TTI denies the allegations in Paragraph 22 of the Verified Complaint. While there was correspondence between ACME and TTI, TTI denies ACME's characterization of its content.

## **VIII. PLACE OF HEARING**

23. Respondent does not believe a hearing is necessary. Should a hearing be held, Respondent requests a hearing be held at the Federal Maritime Commission, 800 N. Capitol St., NW, Washington DC 20573-001.

## **DEFENSES**

### **FIRST DEFENSE**

(Failure to State a Cause of Action)

The Verified Complaint fails to state a claim against TTI upon which relief can be granted. The Verified Complaint fails to allege facts showing that TTI is the proximate cause of the alleged injuries. The Verified Complaint does not allege facts showing that any challenged acts occur on a normal, customary, and continuous basis.

In furtherance of TTI's First Defense, TTI alleges as following:

1. ACME paid demurrage to MSC at rates that accord with MSC's public tariff.
2. The alleged amount of demurrage paid by ACME does not correspond with TTI's tariff.

### **SECOND DEFENSE**

(Damages)

Complainant has not suffered any damages proximately caused by TTI's alleged acts. Moreover, even if demurrage charges were imposed, they were reasonable.

In furtherance of TTI's Second Defense, TTI alleges as following:



1. ACME paid demurrage to MSC at rates that accord with MSC's public tariff.
2. The alleged amount of demurrage paid by ACME does not correspond with TTI's tariff.

**THIRD DEFENSE**  
(Unclean Hands)

Complainant's claims are barred by the doctrine of unclean hands.

In furtherance of TTI's Third Defense, TTI alleges as following:

1. The containers at issue in the case remained on TTI's terminal long after any hold had expired.

**FOURTH DEFENSE**  
(Third Parties)

Complainant's claims are barred, in whole or in part, because any alleged damages they have sustained were caused by third parties or other entities other than TTI.

In furtherance of TTI's Fourth Defense, TTI alleges as following:

1. ACME paid demurrage to MSC at rates that accord with MSC's public tariff.
2. The alleged amount of demurrage paid by ACME does not correspond with TTI's tariff.

**FIFTH DEFENSE**  
(Failure to Mitigate Damages)

Complainant's claims are barred to the extent Complainant did not act with reasonable diligence to mitigate its damages, if any.

In furtherance of TTI's Third Defense, TTI alleges as following:

1. The containers at issue in the case remained on TTI's terminal long after any hold had expired.

**SIXTH DEFENSE**  
(Lack of Authority)

The tribunal lacks constitutional, statutory, and regulatory authority to adjudicate the dispute as pleaded by ACME against TTI.

**SEVENTH DEFENSE**  
(Other Defenses)

TTI intends to rely on other defenses that may become available or appear during the proceeding in this case and reserves its right to amend its Answer and Defenses to assert any such additional defense.

**PRAYER FOR RELIEF**

WHEREFORE, TTI requests that Complainant's Complaint be dismissed with costs assessed against Complainant, including attorney's fees, along with such other and further relief as the Presiding Officer and the Commission deem just and proper.

Dated: June 10, 2022

Respectfully submitted,

/s/ Joseph N. Akrotirianakis

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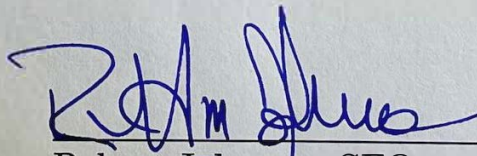
*Counsel for Respondent  
Total Terminals International, LLC*

**Verification Pursuant to 46 CFR § 502.6**

I, Robert Johnson, declare as follows:

1. I am the Chief Executive Officer of Total Terminals International, LLC.
2. I am duly authorized to make this verification of behalf of Total Terminals International, LLC.
3. I have read the contents of the Answer in FMC Docket No. 22-07 attached hereto, and I verify under penalty of perjury under the laws of the United States of America that the foregoing file is true and correct to the best of my knowledge, information, and belief.

Date: 6/9/22

  
\_\_\_\_\_  
Robert Johnson, CEO  
Total Terminals International, LLC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10th day of June, 2022, a true and correct copy of the foregoing Answer was served via email on:

David K. Monroe  
GKG LAW, P.C.  
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*Attorney for Acme Freight Services Corp.*

/s/ Joseph N. Akrotirianakis  
Joseph N. Akrotirianakis