



BEFORE THE  
FEDERAL MARITIME COMMISSION

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**DOCKET NO.** 22-26

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PHILIP REINISCH COMPANY LLC  
COMPLAINANT,

v.

FLEXPORT INTERNATIONAL LLC,  
RESPONDENT.

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**VERIFIED COMPLAINT**

Complainant, Philip Reinisch Company LLC (“Complainant” or “Philip Reinisch”), by its undersigned attorneys, files this Complaint against Respondent herein, alleging violations of the Shipping Act of 1984, 46 U.S.C. § 40101, *et. seq.* (the “Shipping Act”) as follows:

**I. COMPLAINANT**

1. Complainant Philip Reinisch Company LLC is an Indiana limited liability company, with a principal office located at 4266 Bell Road, Suite 10B, Newburgh, IN 47575

**II. RESPONDENT**

2. Respondent Flexport International LLC (“Respondent” or “Flexport”) is a Delaware limited liability company, with a principal office located at 760 Market Street, 8<sup>th</sup> Floor, San Francisco, CA 94102.
3. Flexport is and was at all times pertinent to this Complaint a non-vessel-operating common carrier (“NVOCC”) within the meaning of the Shipping Act, 46 U.S.C. § 40102(17),

subject to regulation by the Federal Maritime Commission (“FMC”). Flexport is a licensed NVOCC under the FMC and its License Number is 025219.

### **III. JURISDICTION**

4. The FMC has subject-matter jurisdiction over this Complaint pursuant to the Shipping Act of 1984, as amended.
5. This Complaint is being filed pursuant to Section 11(a) of the Shipping Act, 46 U.S.C. § 41301(a). Philip Reinisch is seeking reparations for injuries caused to it by Respondent due to its violation of 46 U.S.C. § 41104(a)(15) and 46 U.S.C. § 41104(d).
6. The FMC has personal jurisdiction over Flexport as a NVOCC as defined in 46 U.S.C. § 40102(17).
7. Respondent’s actions alleged herein constitute failure by the Respondent to meet the minimum requirements on detention and demurrage invoices sent to Philip Reinisch in violation of 46 U.S.C. § 41104(a)(15) and 46 U.S.C. § 41104(d).

### **IV. FACTUAL ALLEGATIONS**

8. Philip Reinisch contracted with Flexport whereby Flexport would ship containers from an overseas port to a destination designated by Philip Reinisch.
9. Flexport provided a quote for each shipment describing the freight, destination, and customs charges associated with the delivery.
10. Philip Reinisch has paid all invoices associated with the quotes for the freight and customs charges.
11. On June 27, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1388074-9 (Invoice 1) in the amount of \$8,085.00.

12. On June 27, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1476259-5 (Invoice 2) in the amount of \$3,246.25.
13. Invoice 1 and Invoice 2 did not provide the following information: the date the container was made available, the start date of the free time, the end date of the free time, a statement that the charges were consistent with any FMC rules with respect to detention and demurrage, or a statement that the common carrier's performance did not cause or contribute to the underlying invoiced charges.
14. On June 27, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1322812-5 (Invoice 3) in the amount of \$1,793.00.
15. On June 27, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1365811-5 (Invoice 4) in the amount of \$1,240.00.
16. On June 27, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1365790-6 (Invoice 5) in the amount of \$7,246.03.
17. On June 27, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1365803-5 (Invoice 6) in the amount of \$4,020.00.
18. On June 30, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1322737-4 (Invoice 7) in the amount of \$15,617.50.
19. On June 30, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1388044-8 (Invoice 8) in the amount of \$2,545.00.
20. On June 30, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1303526-5 (Invoice 9) in the amount of \$9,700.00.
21. On June 30, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1366345-4 (Invoice 10) in the amount of \$2,090.60.

22. On June 30, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1322745-5 (Invoice 11) in the amount of \$4,375.00.
23. Invoice 3, Invoice 4, Invoice 5, Invoice 6, Invoice 7, Invoice 8, Invoice 9, Invoice 10, and Invoice 11 did not provide the following information: the date the container was made available, the allowed free time in days, the start date of the free time, the end date of the free time, the applicable detention or demurrage rule on which the daily rate is based, the applicable rate or rates per the applicable rule, a statement that the charges were consistent with any FMC rules with respect to detention and demurrage, or a statement that the common carrier's performance did not cause or contribute to the underlying invoiced charges.
24. Upon receipt of each invoice, Philip Reinisch contacted the company to dispute the invoices due to the incomplete data and request additional information regarding how the charges were calculated.
25. Flexport refused to provide further information regarding the charges in Invoices 1-11 unless Philip Reinisch provided complete payment of all charges.
26. Philip Reinisch had additional shipments with the following shipment numbers: FLEX-1513843, FLEX-1522648, and FLEX-1560040 ("Additional Containers") that arrived, and Flexport held these Additional Containers and refused to complete delivery until Invoices 1-11 were paid.
27. Philip Reinisch provided full payment for these Additional Containers.
28. Flexport informed Philip Reinisch that these Additional Containers were on hold and were accruing detention charges.

29. Philip Reinisch had approximately \$83,000.00 in sales that it was unable to complete due to Flexport's failure to complete delivery of the Additional Containers.
30. After numerous attempts to obtain information from Flexport were unsuccessful, Philip Reinisch engaged counsel to contact Flexport and attempt to resolve the issue of the detention and demurrage charges assessed by Flexport. By letter dated August 3, 2022, counsel for Philip Reinisch requested the incomplete information for Invoices 1-11. Flexport failed to respond to Philip Reinisch's August 3, 2022 letter, and accordingly, Philip Reinisch's final attempt to engage Flexport in a good faith discussion of the demurrage and detention charges was unsuccessful.
31. On August 9, 2022 Flexport provided a credit in the amount of \$3,840.47 to Philip Reinisch for Invoice 1.
32. Due to Flexport's withholding of the Additional Containers, on August 22, 2022 Philip Reinisch provided payment to Flexport for Invoices 1-11 in the amount of \$56,117.91 ("Payment").
33. After delivery of the Additional Containers was completed, Flexport issued additional invoices to Philip Reinisch for additional detention, demurrage, and storage charges.
34. On August 23, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1521652-5 (Invoice 12) in the amount of \$7,270.00.
35. On August 24, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1513843-5 (Invoice 13) in the amount of \$4,083.33.
36. On August 24, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1521645-6 (Invoice 14) in the amount of \$600.00.

37. On August 26, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1476272-8 (Invoice 15) in the amount of \$9,686.67.
38. On August 30, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1476163-5 (Invoice 16) in the amount of \$920.00.
39. On September 6, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1560055-5 (Invoice 17) in the amount of \$5,558.33.
40. On September 6, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1522648-7 (Invoice 18) in the amount of \$10,488.33.
41. On September 6, 2022, Flexport issued Philip Reinisch an invoice with the Invoice Number FLEX-1560040-5 (Invoice 19) in the amount of \$11,36.66.
42. Invoice 12, Invoice 13, Invoice 14, Invoice 15, Invoice 16, Invoice 17, Invoice 18, and Invoice 19 did not provide the following information: the date the container was made available, the allowed free time in days, the start date of the free time, the end date of the free time, the applicable detention or demurrage rule on which the daily rate is based, the applicable rate or rates per the applicable rule, a statement that the charges were consistent with any FMC rules with respect to detention and demurrage, or a statement that the common carrier's performance did not cause or contribute to the underlying invoiced charges.
43. The outstanding charges on Invoices 12-19 amount to \$49,643.32.

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

44. Section 41104(a)(15) of the Shipping Act (46 U.S.C. § 41104(a)(15)) prohibits a common carrier from invoicing any party for demurrage or detention charges unless the invoice includes the information described in Section 41104(d) showing that such charges comply

with (A) all provisions of part 545 of title 46, Code of Federal Regulations and (B) applicable provisions and regulations including the principles of final rule entitled “Interpretive Rule on Demurrage and Detention Under the Shipping Act.”

45. Section 41104(d) requires that an invoice for detention and demurrage charges must contain the following information:

- a. Date that the container is made available.
- b. The port of discharge.
- c. The container number or numbers.
- d. For exported shipments, the earliest return date.
- e. The allowed free time in days.
- f. The start date of free time.
- g. The end date of free time.
- h. The applicable detention or demurrage rule on which the daily rate is based.
- i. The applicable rate or rates per the applicable rule.
- j. The total amount due.
- k. The email, telephone number, or other appropriate contact information for questions or requests for mitigation of fees.
- l. A statement that the charges are consistent with any of Federal Maritime Commission rules with respect to detention and demurrage.
- m. A statement that the common carrier’s performance did not cause or contribute to the underlying invoice charges.

46 U.S.C. § 41104(d)(2).

46. Section 41104(f) provides that “[f]ailure to include the information required under subsection (d) on an invoice with any demurrage or detention charge shall eliminate any obligation of the charged party to pay the applicable charge.” 46 U.S.C. § 41104(f).

47. Section 41310(c) provides that if the FMC determines that a charge does not comply with Section 41104(a), the FMC “shall promptly order the refund of charges paid.” 46 U.S.C. § 41310(c).

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

48. Flexport sought to collect detention and demurrage charges from Philip Reinisch in the amount of \$105,761.23, plus accruing interest based on incomplete invoices that do not comply with 46 U.S.C. § 41104(d)(2).

49. Flexport wrongfully withheld the Additional Containers until Invoices 1-11 were paid which damaged Philip Reinisch’s ability to operate its business.

50. Philip Reinisch paid \$56,117.91 to satisfy Invoices 1-11 that do not comply with 46 U.S.C. § 41104(a)(15) or 46 U.S.C. § 41104(d)(2).

51. Philip Reinisch faces additional outstanding charges of \$49,643.32 for Invoices 12-19 that do not comply with 46 U.S.C. § 41104(a)(15) or 46 U.S.C. § 41104(d)(2).

## **VII. PLACE OF HEARING**

52. Philip Reinisch requests a hearing on this matter, and further requests that the hearing be held in Evansville, Indiana.

## **VIII. PRAYER FOR RELIEF**

WHEREFORE, Philip Reinisch respectfully request that Respondent be required to answer the charges in this Complaint, and that after the Commission’s investigation and hearing, the Commission issue an order:



1. Finding Flexport to have violated 46 U.S.C. § 41104;
2. Refunding the amount of \$56,117.91, plus accrued interest to Philip Reinisch;
3. Awarding Philip Reinisch damages for the wrongful withholding of the Additional Containers and injuries sustained to its business, interest under 46 U.S.C. § 41305(a), and reasonable attorneys' fees and costs under 46 U.S.C. § 41305(e);
4. Nullifying the outstanding charges of \$49,643.32 that Flexport is continuing to seek from Philip Reinisch for incomplete invoices;
5. Such other and further relief as the FMC determines to be just and proper.

Respectfully submitted,

*/s/ Joseph H. Langerak IV*

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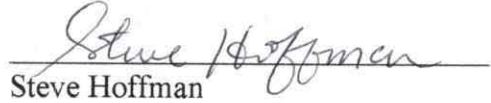
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Attorneys for Complainant

**VERIFICATION**

Mr. Steve Hoffman, Member of Philip Reinisch Company LLC, the undersigned hereby declares and attests under penalty of perjury that he has read the foregoing Verified Complaint, and believes to the best of his knowledge, information, and belief, that the facts stated therein are true and correct.

Date: 9-12-2022

  
Steve Hoffman