

U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. CUSTOMS & BORDER PROTECTION
SEIZURES & PENALTIES DIVISION
CARRIER FINES BRANCH
1300 PENNSYLVANIA AVE, NW, ROOM 2.2C
WASHINGTON, DC 20229
PHONE(202) 344-2150 FAX(202) 344-2747

NOTICE OF INTENTION TO FINE UNDER IMMIGRATION AND NATIONALITY ACT

CASE NO.: 2007530130004001
PORT OF ENTRY: HOUSTON, TEXAS

DATE: 11/08/2006
PORT CODE: 5301

TO: FILLETTE GREEN SHIPPING
12605 EAST FREEWAY

FINE AMOUNT: \$ 1,760.00

HOUSTON, TX 77015

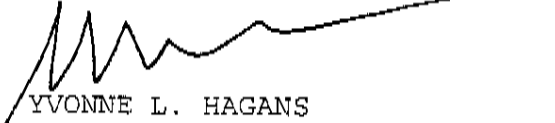
OWNER, AGENT, CHARTERER OR CONSIGNEE OF THE VESSEL:
FILLETTE GREEN SHIPPING VESSEL: LIARA

PERSON OR PERSONS INVOLVED: VLADIMIR BASIUK AND OTHERS (SEE ATTACHED LIST)

PURSUANT TO THE PROVISIONS OF PART 280, TITLE 8, CODE OF FEDERAL REGULATIONS, YOU ARE HEREBY NOTIFIED THAT ON THE BASIS OF THE EVIDENCE OF RECORD CONCERNING THE PERSON (OR PERSONS) NAMED ABOVE WHO ARRIVED AT THE PORT OF ENTRY HOUSTON, TEXAS ON 12/12/2005 EX: FILLETTE GREEN SHIPPING VESSEL: LIARA IT IS INDICATED THAT A FINE SHOULD BE IMPOSED UNDER SECTION 251 OF THE IMMIGRATION AND NATIONALITY ACT (INA) ON THE FOLLOWING GROUNDS:

FAILURE TO PROVIDE A COMPLETE LIST OF ALIEN CREW UPON DEPARTURE FROM THE UNITED STATES.

YOU ARE HEREBY ADVISED THAT YOU HAVE A PERIOD OF 30 DAYS FROM THE SERVICE OF THIS NOTICE TO FILE A WRITTEN DEFENSE IN DUPLICATE UNDER OATH SETTING FORTH THE REASONS WHY A FINE SHOULD NOT BE IMPOSED OR IF IMPOSED WHY IT SHOULD BE MITIGATED OF REMITTED, IF THE PARTICULAR SECTION OF LAW PROVIDES FOR MITIGATION OR REMISSION. IF YOU DESIRE AN OPPORTUNITY FOR PERSONAL INTERVIEW, YOUR WRITTEN DEFENSE MUST INCLUDE A REQUEST FOR SUCH INTERVIEW. EVIDENCE IN SUPPORT OF YOUR DEFENSE SHOULD BE FILED IN DUPLICATE WITH THE WRITTEN DEFENSE OR, IF PERSONAL APPEARANCE IS REQUESTED, THE EVIDENCE MAY BE SUBMITTED AT THAT TIME. IF YOU REQUEST PERSONAL APPEARANCE YOU WILL BE GIVEN AN OPPORTUNITY TO BE INTERVIEWED BY AN IMMIGRATION OFFICER FOR THE PURPOSE OF PRESENTING EVIDENCE CONCERNING THE ALLEGED VIOLATION. YOU MAY BE REPRESENTED BY COUNSEL AT SUCH INTERVIEW IF YOU SO DESIRE. YOU MAY ALSO SUBMIT A BRIEF OR OTHER WRITTEN STATEMENT IN SUPPORT OF YOUR CONTENTIONS. THE VESSEL OR AIRCRAFT ON WHICH THE ALIEN (OR ALIENS) ARRIVED WILL BE GRANTED CLEARANCE WHEN READY TO DEPART AND ALLOWED TO PROCEED UPON THE OUTWARD-BOUND VOYAGE ON CONDITION THAT YOU DEPOSIT WITH THE CBP, SEIZURES AND PENALTIES DIVISION, PRIOR THERETO THE SUM OF \$ 1,760.00 OR WHERE PERMITTED BY THE INA, A BOND WITH SUFFICIENT SURETY TO SECURE PAYMENT OF THE FINE SHOULD IT BE IMPOSED.


YVONNE L. HAGANS
CHIEF, CARRIER FINES BRANCH

U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. CUSTOMS & BORDER PROTECTION
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WASHINGTON, DC 20229
PHONE(202) 344-2150 FAX(202) 344-2747

NOTICE OF INTENTION TO FINE UNDER IMMIGRATION AND NATIONALITY ACT

ADDITIONAL PERSON(S)

CASE NO.: 2007530130004001
PORT OF ENTRY: HOUSTON, TEXAS

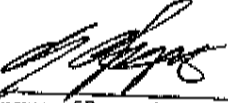
DATE: 11/08/2006
PORT CODE: 5301

001 ANATOLIY DOBROVOLSKYY
002 ALEXEY FILIMONOV
003 EVGENIY GLUSHACHENKOV
004 SERHIY MASLOV
005 IGOR SOKOLKO
006 ALEXANDER TELNOV
007 ANATLIY YEREMENKO

Notice of Written Defense in Administrative Fine Proceedings

This form must be completed for each proposed fine being defended to the National Fines Office. Please provide all requested information. Written defenses received more than sixty (60) days after issuance of a Notice of Intent to Fine may be administratively rejected without regard to content. Requests for copies of case files may NOT be made in conjunction with this form.

1. Fine Number: 2007530130004001
(Reference only one Fine Number per form.)
2. Flight Number / Vessel Name: LIARA
(As recorded on Notice of Intent to Fine)
3. Alien Name(s): M/V LIARA
(As recorded on Notice of Intent to Fine)
4. Defense is submitted: Pro Se [] By an Attorney or Representative on behalf of the Carrier (If so, Form G-28 must be attached.)
5. Is a personal appearance requested? [] No [] Yes (If yes, explain why a written defense alone is not sufficient.)
6. Provide full written defense here or attach written defense and supporting documentation (even if a personal appearance is requested!).
[] Separate written defense is attached. [] Complete written defense is as follows:


Signature of Respondent

11/7/2006
Date

NILS B. LYNOSO
Printed Name

713 453-5895
Phone

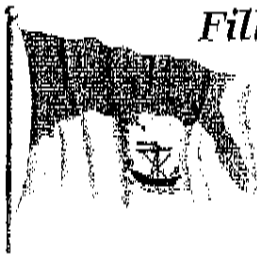
FILLOTTE, GREEN SHIPPING SERVICES
Street Address

12505 EAST FREEWAY # 506
Street Address

HOUSTON, TEXAS 77015
City, State & Zip Code

REJECTION OF SUBMISSION (FOR INS USE ONLY)	
Reason(s) for Rejection:	
[]	Defense not timely.
[]	Fine Number not valid.
[]	Other _____

Small Business Consideration: Is entity named on Notice of Intent to Fine a small business (annual receipts of \$5 million or less)? [] No [] Yes



Fillette, Green Shipping Services (USA) Corp.

Shipping Agents & Freight Brokers

Telephone: (713) 453-5895 (24 Hours) • Telefax: (713) 453-7658

Email: hou@fillettegreen.com



HOUSTON, TEXAS

November 7, 2006

U.S. Department of Homeland Security
U.S. Customs & Border Protection
Seizures & Penalties Division
Carrier Fines Branch
1300 Pennsylvania Ave, NW – Room 6.3D
Washington, DC 20229

Re: Case No: 2007530130004001 – M/V LJARA

Gentlemen;

In reference to the above case, we are hereby filing our written defense to the allegation that this office did not file a complete list of alien crew upon departure from the United States to a foreign destination.

We present as our defense that we did not handle a vessel called "LJARA" around the time stipulated in your Notice.

We did however handle a vessel by the name "LARA" in and around the time stipulated in your notice and in the belief the vessel's name has been spelled incorrectly, we present the below as our defense to the extent that your notice concerns M/V LARA.

This letter serves as notice that we did not have the authority to file a departure crew list upon the vessel's departure from the port from which the vessel departed to a foreign destination.

8CFR251 concerning the filing of a departure crew list provides in relevant part: "The master or agent of every vessel departing from the United States shall submit to the immigration officer at the port from which the vessel is to depart directly to some foreign place" a departure crew list as described in detail in the subsequent text.

8USC1281(c) concerning departure crew lists provide in relevant part "Before the departure of any vessel or aircraft from any port in the United States, it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof, to deliver to an immigration officer at that port" a departure crew list as described in the subsequent text.

The facts surrounding the vessel's departure from Houston are as follows:

- It is a matter of record with the Department of Homeland Security, Customs & Border Protection that the vessel was cleared from Houston to Brownsville, Texas on December 12, 2005. Therefore there was no requirement for this company to file a departure crew list upon departure from Houston.
- We are attaching a copy of the clearance from Houston to Brownsville, Texas. – Upon arrival at Brownsville, Texas, this clearance had to be surrendered to the local office of Customs and Border protection upon making formal entry.

12605 East Freeway • Suite 506 • Houston, Texas 77015

Offices: Corpus Christi, TX • Point Comfort, TX • Houston, TX • New Orleans, LA • Pass Christian, MS • Gulfport, MS
Pascagoula, MS • Mobile, AL • Pensacola, FL • Tampa, FL • Port Manatee, FL • Port Everglades, FL • West Palm Beach, FL
Cape Canaveral, FL • Jacksonville, FL • Savannah, GA • Charleston, SC • Wilmington, NC

U.S. Department of Homeland Security
U.S. Customs & Border Protection
Washington, DC 20229

- It is a matter of record with the Department of Homeland Security, Customs & Border Protection from which port the vessel departed to a foreign destination and who the agent was for the vessel at that port as the vessel would have to file both an entry and clearance with the local office of Customs and Border Protection.
-
- Our authority to act for the vessel was limited to matters concerning the vessel's call at the port of Houston and was therefore limited to the filing of the arrival manifest. - Since the vessel did not depart to a foreign destination from Houston we did not receive instructions and authority from the Owners to file a departure crew list upon departure from the last U.S. Port due to the fact that this authority was given to another agent.
- We have no records showing from which United States port the vessel departed to a foreign destination and no records showing who the agent at that port was. Since the Owners in all likelihood appointed an agent at the port from which the vessel departed to a foreign destination to handle matters concerning the vessel's call at that port, it is our belief that the filing of the departure manifest fell within the authority of that agent.
- In addition the vessel filed the required APIS Electronic passenger and crew member departure manifest as required by 19CFR4.64 prior to departure from the United States to a foreign destination which clearly showed the name of the agent at the port of departure as well as the name of the Owners.
- There is no record that we acted as the agent with authority to file a departure manifest nor in any other capacity as described in 8USC1281(c) obligating us to file a departure crew list at the port from which the vessel departed to a foreign destination from the United States.
- Since we were not the agents at the port of departure from the United States, we are not familiar with the circumstances surrounding the departure of the vessel nor are we in possession of any records that could possibly support a defense.
- In view of the fact that we cleared the vessel from Houston to Brownsville, Texas, Customs and Border Protection should have reasonably known that we did not have the authority to file a departure crew list.
- In view of the fact that another agent filed a 3171 with Customs and Border Protection in the port from which the vessel departed to a foreign destination, made formal entry and cleared the vessel for a foreign destination, Customs and Border Protection should have reasonably known that this would be the agent likely to have authority to file a departure crew list.
- There is no record that we acted as the agent with authority to file a departure manifest nor in any other capacity as described in 8USC1281(c) obligating us to file a departure crew list at the port from which the vessel departed to a foreign destination from the United States.
- Case law has determined that Notice to an agent is imputed to the principal, if the notice concerns matters within the agent's authority. See *Delbrueck & Co v. Manufacturers Hanover Trust Co.* 609 F.2d 1047 (2nd Cir, 1979); *Corporacion de Mercadeo Agricola v. Mellon Bank*, 608 F.2d 43, 46 (2nd Cir. 1979). - Clearly, this company was not authorized by the Owners of the vessel to file a departure crew list as such authorization would have been given to the agent's whom the Owners of the vessel appointed to handle matters on their behalf at the port from which the vessel departed to a foreign

U.S. Department of Homeland Security
U.S. Customs & Border Protection
Washington, DC 20229

- destination. – Since the vessel was cleared by us to a port in the United States and was entered and cleared at the local office of Customs and Border Protection from where it departed to a foreign destination, there are compelling reasons for Customs and Border Protection to believe that we were not the agent authorized by the Owners of the vessel to file a departure manifest upon departure from the United States.
- Since we were not the agents for the vessel at the port from which the vessel departed to a foreign destination, we were never given possession of any documents and other necessary information enabling us to file a departure manifest.
- Since we do not know from which port the vessel departed to a foreign destination and who the agents were at that port, we are at a disadvantage to even provide evidence that a departure manifest was filed.

In view of the foregoing it is clear that this company should not be fined for any alleged infraction of law as the facts clearly show that we were not the agent at the port where the alleged violation occurred and that we therefore did not have the authority to file a departure crew list.

Under the provisions of the Freedom of Information Act, we hereby request a complete copy of the clearance issued at the port from which the vessel departed to a foreign destination or any document depicting the port from which the vessel departed to a foreign destination and the name of the agent at that port.

In case our defense as presented above is not sufficient for you to determine that a penalty should not be assessed against this company, we are hereby requesting an extension of 30 days to file an additional defense beginning on the day after which you provide the documentation requested under the Freedom of Information Act above.

Should you determine that a penalty should be assessed against this company, we respectfully request that you provide all documentation in the possession of the Department of Customs and Border Protection evidencing that a departure manifest was not filed, documentation evidencing that we were the agent of record in the port from which the vessel departed to a foreign destination as well as evidence that the vessel did in fact depart to a foreign destination.

Very truly yours,



Niels B. Lyngso



3171 =

DEPARTMENT OF THE TREASURY
United States Customs Service

OMB No. 1515-0060

TPE#

VESSEL ENTRANCE OR CLEARANCE STATEMENT

19 CFR Part 4

ENTRANCE CLEARANCE

See back for Instructions

TRADE CODES (see back)						Check One: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 6					
1. Manifest No.		2. Port Arrival Houston Texas / 53-01		3. Date & Time of Arrival/DEPARTURE Dec. 12, 2005 @ 1700		4. Vessel Operating Draft (in feet and inches) 18 FT					
5. Nationality, Name and Type of Vessel NETHERLANDS M/V LARA 330 Crew Cargo			6. Vessel Built at/Year THE NETHERLANDS 1998			7. Name, Address & Phone No. of Ship's Agent Fillette, Green Shipping Services 12605 East Freeway, Suite 506 HOUSTON, TX 77015 TEL: 713-453-5895 FAX: 713-453-7658					
8. Name & Country of Owner LARA SHIPPING BV EMMEN, NETHERLANDS				9. Name & Country of Operator SUNG AS # 2							
10. Gross Tonnage 3954		11. Net Tonnage 2086		12. Port Arrived From / DEPARTED FOR Brownsville, Texas		13. IMO# 9180853		Official #		Call Sign ABCI	
14. List All Dock Locations (continue on back if necessary)											
15. Particulars of Voyage (Previous and subsequent Ports of Call, include dates; underline where remaining cargo will be discharge. (Cont on back) POY SUMNER, FRANCE / Sep 11-20-05, Houston TX / Sep 12-12-05, Brownsville TX.											
16. Brief Description of Cargo STEEL COILS						17. <input checked="" type="checkbox"/> Check if Incomplete Manifest for Export <input type="checkbox"/> Check if Licensed Cargo Loaded <input type="checkbox"/> Check if Complete Manifest filed for Export					
18. No. of Crew 8		19. No. of Passengers 0		20. List All Carriers on board by SCAC Code							
21. Tonnage Mark <input checked="" type="checkbox"/> None <input type="checkbox"/> Submerged <input type="checkbox"/> Not Submerged				22. Bunkers: Type, Barrels, Value NONE							
23. Load Line Expires 12/21/08		24. Solas Certificate Expires 12/21/08		25. Passengers Allowed Per Coast Guard Certificate		26. No. of Passengers Embarking/Disembarking					
27. Cert. Of Fin. Resp. No. (Water Pollution) and Exp. Date 6/1/08 - 25749-17			28. Cert. Of Fin. Resp. (Passenger Death/Injury)			29. Certif. Of Fin. Resp. (Passenger Transportation Indemnification)					
30. PURPOSE OF ENTRANCE / CLEARANCE <input type="checkbox"/> D (Discharge Foreign Cargo) <input checked="" type="checkbox"/> X (Export Cargo Aboard on Arrival) <input type="checkbox"/> L (Ince Cargo of Export) <input checked="" type="checkbox"/> F. (PROB - Foreign Cargo to Remain on Board) <input type="checkbox"/> N (No Cargo transactions) <input type="checkbox"/> Y (Military Cargo for Discharge/to be Laden)											
31. Print and Sign Name of Master, Date <i>[Signature]</i> 12-12-2005 <i>[Signature]</i>											
FOR CUSTOMS USE ONLY											
32. <input type="checkbox"/> Customs User Fee Paid Up*			33. <input type="checkbox"/> APHIS User Fee Paid Up*			34. <input type="checkbox"/> Tonnage Tax Paid Up*					
35. Cash Receipt, CF 368 or Transaction No.			36. Total Fees Collected PORT OF HOUSTON GALVESTON PERMISSIONS GRANTED TO PROCEED ON THE PORT NAMED IN THE			37. Port Entered, Time and Date 53-01 Houston, Tx / 174 Hrs / 12-12-2005					
38. Customs Officer Remarks											
39. Signature and Title of Officer Receiving Entry Insp. <i>[Signature]</i> Badge # <i>[Number]</i>											

* Check boxes only if fees not collected

Customs Form 1300 (02/02)

**U.S. Customs and Border Protection
Fines & Penalties Division
Carrier Fines Branch
1300 Pennsylvania Ave, NW, Room 2.2C
Washington, D.C. 20229
(202) 344-2150 FAX (202) 344-2747**

NOTICE OF TERMINATION OF PROCEEDINGS

SEACATS # 2007530130004001

Fillette Green Shipping Services
12505 East Freeway #506
Houston, TX 77015

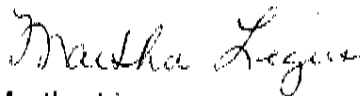
Dear Mr. Lyngso

This is in response to your defense filed on December 8, 2006, for the above referenced case number.

After review of the facts in the case and the issues raised in your defense, it has been determined that the subject case is terminated. Accordingly, this case is considered closed.

If you have any questions of this case, you may contact the Carrier Fines Office at (202) 344-2150.

Sincerely,



Martha Ligus
Acting Chief, Carrier Fines Branch
Fines and Penalties Division