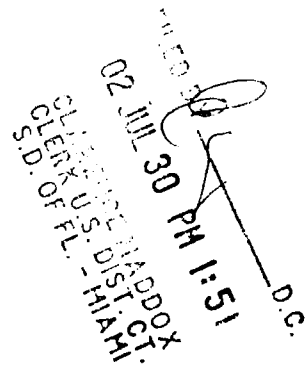
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 01-3173-CIV-UNGARO-BENAGES



UNITED STATES OF AMERICA

Plaintiff,

v.

BENOIT LACINE, RIVERSIDE SHIPPING, INC., and WASHINGTON INTERNATIONAL INSURANCE, CO.

Defendants.

REPLY TO PLAINTIFF'S RESPONSE TO MOTION TO COMPEL

The Government has wasted this Court's time by using its response to Washington International Insurance Company's ("WIIC") motion to compel better answers to discovery as a forum for briefing its mistaken argument that no demand is necessary to satisfy 19 U.S.C. § 1584. The Government's position on that topic is amply discussed and rebutted in WIIC's memorandum of law in support of motion for summary judgment. What the government does not answer in its response is why it should not be required to follow the rules of civil procedure and provide a proper answer to the interrogatories.

WIIC will not revisit the various requests in its original motion. However, as key example, in Interrogatory 3, WIIC asked a description of demands made on the surety for the manifest. If no demands were made then the correct answer is "none" after which the government may posture and argue its view of the law. Instead the government has purposefully avoided providing a direct response, never stating whether a demand was made, but instead debating whether a demand is

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necessary. This is an evident effort to avoid summary judgment and proselytize to the court as to its legal position.

Answers to interrogatories should be responsive, full, complete and direct. *Pilling v. General Motors Corporation*, 45 F.R.D. 366 (D.C. Utah 1968). The U.S. Government is bound to respond to interrogatories as is any other party. *U.S. v. General Motors Corporation*, 2 F.R.D. 528 (D.C. Ill. 1942). An evasive answer by a party, such as that made by the government in this case, is not an answer. *Bollard v. Volkswagen of America, Inc.*, 56 F.R.D. 569 (D.C. Mo. 1971).

In response to response to request for admissions 1 and 2 the government is asked to admit or deny that no demand was made on the ship master, officers or shipping agent. The government denies these requests and then proceeds to argue that it denied the request because no demand was necessary. The government's obligation was to admit that no demand was made and then argue what it wished. It is clear that no demand was made from the government's answers.

When a request for admissions is denied the court must consider whether denial fairly meets the substance of the request, whether good faith requires that the denial be qualified, whether any qualification provided is done in good faith and whether the denial should be struck and deemed an admission. *Thalheim v. Eberheim*, 124 F.R.D. 34 (D.Conn. 1988). In this case the government contradicts its own denial. The Court should require a restatement of the answer or should deem it an admission.

CONCLUSION

Based on the foregoing arguments and citations of authority WIIC's motion to compel better answers should be granted.

Respectfully submitted,

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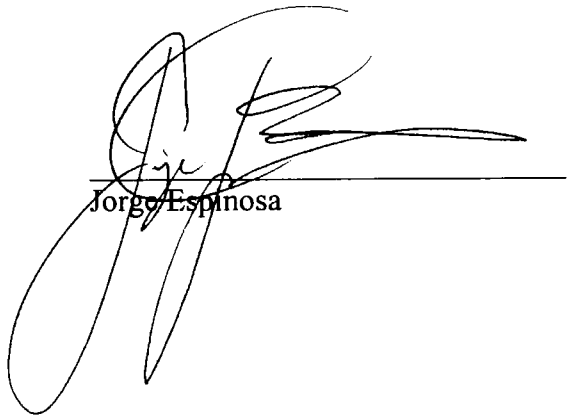
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Default Against Riverside Shipping, Inc. was served by U.S. Mail on July 30, 2002, upon William C. Healy, Esq. 99 NE 4th Street, Suite 300, Miami, Florida 33132 and Donald S. Rose, Esq., 44 West Flagler Street, Miami, Florida 33130.



Jorge Espinosa

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