



16616
March 17, 2003

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: MV00004262
[REDACTED]
Container [REDACTED]
\$5,100.00

Dear Mr. [REDACTED]:

The Commanding Officer, Coast Guard Hearing Office, Arlington, Virginia, has forwarded the file in Civil Penalty Case MV00004262, which includes your appeal on behalf of [REDACTED], shipper of container [REDACTED]. The appeal is from the action of the Hearing Officer in assessing a \$5,100.00 penalty for the following violations:

<u>LAW/REGULATION</u>	<u>NATURE OF VIOLATION</u>	<u>ASSESSED PENALTY</u>
49 CFR 172.504	Failure to comply with general placarding requirements.	\$2,100.00
49 CFR 176.76	Failure to comply with regulations governing shipment of HAZMAT in transport vehicles, freight containers, or portable tanks.	\$3,000.00

The violations were observed on October 23, 2000, when Coast Guard inspectors conducted a container inspection of container [REDACTED] after it was unloaded at the Port of New York, in New York.

On appeal, you do not dispute that violations of the Federal Regulations occurred. However, you contend that the responsibilities of [REDACTED] "stop[ed] when...[you]...gave the goods to the carrier." You further state that [REDACTED] used the term "EXW" and that, therefore, it was the carrier's responsibility to ensure that the container complied with all U.S. regulations. You conclude that [REDACTED] "uses all the means to respect the transport relementation, (sic) particularly concerning...shipment to the United States of America." Your appeal is denied for the reasons discussed below.

March 17, 2003

In accordance with the provisions contained in 33 CFR 1.07-70(a) the only issues that will be considered on appeal are those issues specified in the appeal that were properly raised before the Hearing Officer and jurisdictional questions. As the record shows you did not respond until after the Hearing Officer issued his Final Letter of Decision on May 7, 2001, you are considered to have waived your right to an appeal. Therefore, I consider both violations proved and will neither mitigate nor dismiss the penalty assessed by the Hearing Officer.

In accordance with the regulations governing civil penalty proceedings, 33 CFR 1.07, this decision constitutes final agency action. Payment of **\$5,100.00** by check or money order payable to the U.S. Coast Guard is due and should be remitted promptly, accompanied by a copy of this letter. Send your payment to:

U.S. Coast Guard - Civil Penalties
P.O. Box 100160
Atlanta, GA 30384

Payments received within 30 days will not accrue interest. However, interest at the annual rate of 4.25% accrues from the date of this letter if payment is not received within 30 days. Payments received after 30 days will be assessed an administrative charge of \$12.00 per month for the cost of collecting the debt. If the debt remains unpaid for over 90 days, a 6% per annum late payment penalty will be assessed on the balance of the debt, the accrued interest, and administrative costs.

Sincerely,

//S//

DAVID J. KANTOR
Deputy Chief,
Office of Maritime and International Law
By direction of the Commandant

Copy: Commanding Officer, Coast Guard Hearing Office
Commanding Officer, Coast Guard Finance Center