EXHIBIT B

1
UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
3
4 CASE NO: 20-cv-22471-GAYLES/Otazo-Reyes
5 _____
6 NORTH AMERICAN SUGAR
INDUSTRIES INC.
7
Plaintiff
8
vs.
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XINJIANG GOLDWIND SCIENCE & TECHNOLOGY
10 CO., LTD., GOLDWIND INTERNATIONAL
HOLDINGS (HK) LTD., DSV AIR & SEA INC.,
11 BBC CHARTERING USA, LLC and
BBC CHARTERING SINGAPORE PTE LTD.,
12
Defendants
13
_____ /
14
15
16 REMOTE VIDEOTAPED DEPOSITION OF
17 KENNETH WITKOWSKI
18 June 24, 2021
19 10:08 a.m.
20
21
22 Reported by: Bonnie L. Russo
Job No. 4663493

department of commerce had said that, the provisos contradicted that.

Q. Did you understand that the Miami stop was necessary to complete the shipment because the commerce department needed to have jurisdiction over the transaction?

MR. BROCHIN: Object to the form of the question.

THE WITNESS: I understand that through GE's attorney. I didn't -- the department of commerce did not tell me that directly.

BY MR. MELTZER:

Q. Did you understand that the Miami stop was in order for the parties to be able to rely on a general commerce department license?

MR. BROCHIN: Objection. Just asked and answered.

BY MR. MELTZER:

Q. You can answer.

A. According to GE's attorney, it was permitted.

Q. So the answer is yes, that was your understanding?

MR. BROCHIN: Object to the form of the question. It wasn't his answer, and you are mischaracterizing his testimony.

MR. MELTZER: So I will step out for a second.

Bobby, please limit your objections to form and omit the speaking objections. We have probably had to go over this 20 times.

BY MR. MELTZER:

Q. Mr. Witkowski, was it your understanding that the Miami stop was in order for the parties to be able to rely on a general commerce department license?

MR. BROCHIN: Objection. Asked and answered.

THE WITNESS: I was -- I understood from -- from GE's attorney that that was what was required.

BY MR. MELTZER:

Q. And as the e-mail reflects, this was

preferable to having to wait two years to obtain an OFAC license, correct?

MR. BROCHIN: Objection. The document speaks to it -- for itself.

BY MR. MELTZER:

Q. You can answer.

MR. MELTZER: And I will ask again for Mr. Brochin to please limit his objections to form and stop the speaking objections.

THE WITNESS: Could you just ask the question one more time.

BY MR. MELTZER:

Q. Certainly. The e-mail reflects relying on a general department of commerce license was preferable than having to wait two years to obtain an OFAC license, correct?

MR. BROCHIN: Objection. Asked and answered.

THE WITNESS: The e-mail was forwarded. This was GE's discussion with the department of commerce, so I can't answer to what -- whether I believed that.

BY MR. MELTZER:

Q. Is it your understanding that the general commerce department license was relied on instead of an OFAC license because it was preferable not to have to wait two years?

MR. BROCHIN: Object to the form of the question.

THE WITNESS: I don't know.

BY MR. MELTZER:

Q. You did receive this e-mail, correct?

A. I did receive the e-mail, yes.

Q. And do you see where it says in the e-mail: "If the ship sailed from China to Cuba, then commerce would not have jurisdiction over the goods and an OFAC license would be required to complete the transaction. Obtaining an OFAC license is not a commercially viable option for this deal, so we have structured our business involving Cuba to have shipments come to the U.S. first."

A. According to GE's attorney, that was

their advice, yes.

Q. Turning to the next e-mail at the top of the same page, DSVUS_PJ_000632, do you see where you write on October 29, 2018 at 4:33 p.m.: "Thanks for your response to my query about following Miami and this clarifies it for me"?

A. I was relying on the advice of GE's counsel that they had checked it out further than I did.

Q. Did you understand at the time that the stops in Miami were an intentional business decision in order to meet obligations and comply with a commerce department license?

MR. BROCHIN: Object to the form of the question.

THE WITNESS: I believe that GE told me that it was, so I -- I took their -- took their legal counsel advice.

BY MR. MELTZER:

Q. Turning to the e-mail at the top of DSVUS_PJ_000631, do you see where mister --

strike that.

Turning to the e-mail at the top of DSVUS_PJ_000631, this is an e-mail from Jacob Nielsen to you, Ken Witkowski, on October 30, 2018, correct?

A. That is correct.

Q. You received this e-mail, correct?

A. That is correct.

Q. Do you see where Mr. Nielsen writes to you: "So from a DSV point of view, are we okay compliance-wise?"

A. I see that, yes.

Q. Did you respond to this e-mail?

A. I don't recall.

Q. You don't know if you responded to this e-mail?

A. I don't know. I may have called him.

Q. You may have called him. Do you know what you might have said?

MR. BROCHIN: Object to the form of the question.

CERTIFICATE OF NOTARY PUBLIC

I, Bonnie L. Russo, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in shorthand and thereafter reduced to computerized transcription under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

Bonnie L Russo

Notary Public in and for
the District of Columbia

My Commission expires: August 14, 2025