

**NCBFAA – NEI Session
International Trade Agreements/Trade
Preference Programs:
Money Makers or High Risk Claims Sources?**



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Susan Kohn Ross, Esq.
Mitchell Silberberg & Knupp LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064
(310) 312-3206, Fax (310) 231-8406
skr@msk.com
www.msk.com

MITCHELL SILBERBERG & KNUPP LLP



Lawyers for the 21st Century™ | www.msk.com

Amy Magnus, LCB, CCS, & CES
Director of Customs Affairs & Compliance
Trade Ambassador for CBP's Trade Support Network

Champlain, NY 12919
(518) 298-7401, Fax (518) 298-7557
amagnus@anderinger.com
www.anderinger.com



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Eduardo L. Acosta
R.L. Jones Customhouse Brokers
8830 Siempre Viva Road, Ste. 100
San Diego, CA 92154
Tel: (619) 661-8182 / Fax: (619) 661-8181
Email: eacosta@rljones.com
www.rljones.com



The advertisement features a dark blue background with a white globe on the left. A large red arrow curves upwards from the bottom left towards the top right. The text is in white and red. The website address is in the top left. The company name is in large, bold letters. Below it, the tagline 'Experience Integrity Commitment' is written. The services listed are 'Customs Brokerage', 'Global Logistics', 'Bonded Warehouse / Distribution', and 'Customs Consulting'. A red banner at the bottom right contains the company name and the slogan 'Serving the Southwest Since 1938'. A small globe icon is next to the company name in the bottom right corner.

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Scenario 1

- The broker receives a set of documents from the importer which includes an AGOA certificate of origin, along with an invoice, packing list and bill of lading.
- The goods are from an AGOA eligible country – South Africa.
- When he receives the executed power of attorney and terms and conditions, the broker asks the new customer/importer if he has the documents to back-up his AGOA claim and is told yes.
- The broker files the entry, claims AGOA benefits for his importer and does the same on a large number of entries which follow.

Scenario 1 - More Facts

- CBP issues a Request for Information seeking the usual list of production records.
- At this point, the importer confesses, all he has is the certificate of origin
- He is not sure he can get anything more from his supplier.

Questions

- What should the broker do at this point?
- Would the broker's actions be any different if the importer provided 3" of documents?

Solutions?

- What compliance actions could/should the broker have undertaken when he signed up this customer?
- What should the broker do if CBP shows up asking to see his records?
- Is the answer any different if CBP brings HSI along?

Scenario 2

- On November 12, 2013, Big Van Company in Canada asked Best Broker in Detroit to file a T.I.B. for 8 new passenger vans temporarily entering U.S.
- Big Van provided 9813.00.0540 HTSUS and advised the broker certain alterations were to be made to these vans in the US to outfit them for handicapped individuals, but all would be exported within a few weeks.

Scenario 2 – More Facts

- The vans were new, but not made in the U.S. or Canada.
- Big Van Company described the alterations as involving the installation of lift gates and automatic doors to facilitate the loading and unloading of wheelchairs and their passengers.

Scenario 2 – Even More Facts

- Best Broker filed the T.I.B. using the HTS provided, and within 2 months, all the vans were exported back to Canada
- Due to the value of the goods, Best Broker ensured they filed the proof of export to close the T.I.B..

Oops

- On January 5, 2013, CBP issued a CBP Form 28 (sent directly to Big Van, no courtesy copy to broker) asking the importer to “Describe what will be done to the vehicle for the wheelchair modification.”
- Without consultation with Best Broker, Big Van timely responded with pictures, drawings, and even a marketing video which showed how the vans were almost completely disassembled in the U.S. to install the upgrades.

How do you think this ends?

Scenario 3

- Importer provides broker with product description and manufacturing process;
- Broker requests BOM and reviews it;
- After reviewing the actual process, rule of origin, and BOM, the broker makes a NAFTA determination;
- Importer provides a valid NAFTA certificate.

Scenario 3 – More Facts

- CBP issues a CBP Form 28 Request for Information, including asking for backup to support the U.S. items on the BOM;
- Importer advises broker they changed vendors and a key component is no longer U.S. origin, but rather foreign;
- The component being foreign origin disqualifies finished good from NAFTA.
- What should the broker do?

And Then?

- Broker asks for supporting documents and is told the importer does not have any, but they know that the BOM is accurate and the goods are NAFTA eligible.
- What should the broker do?

Scenario 4

- Big Bucks Pipe of Canada purchased Chinese pipe to make pig launchers and pig catchers. Because the tar sands oil industry is booming in Canada, Big Bucks Pipe could not spare any workers in Canada to turn the pipe into pig launchers and catchers, so they decided to send the pipe to their workers in Houston, TX because they had the capacity to handle the project.
- Big Bucks Pipe contacted their broker, Best Broker in Detroit, and requested they file a T.I.B. on the Chinese pipe explaining all the pipe was going to be returned to Canada after being fashioned into pig launchers and catchers.

Ack!

- All went as planned, and the pipe was entered under a T.I.B. 9813.00.0540 on May 15, 2013.
- On May 30, 2013 the pigs were exported.
- Then what?

Scenario 5

And on the outbound side?

- Suppose the freight forwarder is assisting an exporter to send fabric cut to size and shape to South Africa.
- What questions should he ask?

Scenario 6

- A Canadian pharmaceutical company, Drugs R Us, sent certain DEA regulated pharmaceutical ingredients to the US. These API (active pharmaceutical ingredients) are narcotics not approved for use in the US.
- Drugs R Us requested Best Broker enter as a T.I.B. since these API were going to be mixed with various other ingredients in the U.S. to make a particular drug which was subsequently exported to Canada.

Scenario 6 – Additional Facts

- The pharmaceutical ingredients Drugs R Us sent to the U.S. were of foreign origin
- Drugs R Us paid Canadian duties upon original entry into Canada.
- Best Broker complied with Drugs R Us' instruction, and entered the pharmaceutical ingredients under T.I.B. 9813.00.0520, HTSUS.
- Without fail, the finished product was returned to Canada with the one year time limit, and the T.I.B. cancellation was sent to CBP.
- Why didn't it end here?

Scenario 7

- Broker acquires an importer who was using a competitor.
- The importer explains there has been a lot of turnover at the competitor and he no longer feels he is getting the service he requires.
- The goods are primarily U.S. made with some foreign components and are being shipped to a maquila for further processing.

Scenario 7 – More Facts

- The importer explains he has been shipping these components and finished goods between Mexico and the U.S. for 10 years and been claiming 9801 on all of them.
- He has few exams and has had no inquiries about his goods from CBP.

How to Proceed?

- What questions should the broker ask the importer?
- Are there any documents the broker should request?

Argh!

- Six months after acquiring the importer's account, the broker is visited by CBP.
- What should the broker do?

Oh, boy!

- The broker is located in Dallas.
- The goods transit the border at Laredo.
- The Laredo forwarder is visited by CBP.
- What should the forwarder do?
- Does it make a difference if the visit is conducted by HSI?

**And then there was
the records demand!**

Questions?





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Suite 100
San Diego, CA. 92154
- eduardo@rljones.com
- 619-661-8182, x 1100

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San Diego Office: 619-661-8182

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MITCHELL SILBERBERG & KNUPP LLP

Website: www.msk.com

Washington, D.C.

New York, NY

Los Angeles, CA

Office: 310-312-3206

Fax: 310-231-8406