

COLLECTED **DOCDEX** DECISIONS

2013-2016



Decisions by ICC experts on Documentary Credits,
Collections, Reimbursements and Demand Guarantees

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DOCDEX Decision No. 341

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ICC at a glance

DOCDEX Decision No. 321

URR 725 sub-article 8 (a) and article 4

Was the issuing bank liable to honour the drawings made under the L/C when it had accepted all of the presented documents? Was the reimbursing bank liable to pay after it had been instructed by the issuing bank to stop all payments under the L/Cs until further notice and when it had not issued any reimbursement undertaking?

Parties

Initiator: Bank S (Nominated Bank)
Respondents: Bank C (Issuing bank)
Bank G (Reimbursing bank)
Company E (Applicant)
Company C (Beneficiary)

Background

Respondent 1 has not filed an Answer, while Respondents 2, 3, and 4 did in response to the Initiator's Request. This dispute, between the Initiator and the Respondents, relates to the following letters of credit (the "L/Cs"):

	L/C number	L/C issuing date	Amount (US\$)
1.	2008.WO.0001234	15/08/2008	8,411,946.40
2.	2008.WO.0000567	14/11/2008	2,817,926.83
3.	2008.WO.0008910	14/11/2008	14,877,759.24

- > The L/Cs are all subject to UCP 600, URR 725 and are all available by deferred payment. From 17 June 2009 to 14 December 2009, the beneficiary presented discrepant documents to the Initiator, which was the nominated bank under the credit. The Initiator refused to prepay the discrepant documents, and the beneficiary requested the Initiator to send the documents on a collection basis to the issuing bank. The Initiator acted in accordance with the beneficiary's instructions.
- > The issuing bank accepted the presented documents and advised the Initiator of the respective due dates of payment. The Initiator alleges that the issuing bank subsequently released the presented documents to the applicant, who then took delivery of the goods.
- > The reimbursing bank advised the Initiator that the issuing bank had informed it that the Initiator was authorized to seek reimbursement from the reimbursing bank in respect of the drawings accepted by the issuing bank. However, the reimbursing bank expressly stated in the above message that it had not been requested to add its confirmation to the reimbursement authorization, and such advice was given without any engagement on its part. The reimbursing bank honoured all reimbursement claims made by the Initiator until 15 June 2011.
- > Upon enquiry made by the Initiator as to the reason the reimbursement ceased, the reimbursing bank advised the Initiator that it had been instructed by the issuing bank to stop all payments under the L/Cs until further notice. Therefore, the reimbursing bank had no authorization to honour any outstanding reimbursement claims.
- > No reimbursement claims were honoured after 15 June 2011. The claims outstanding amounted to US\$12,283,447.96 (as of 2 July 2012), and the total for transactions maturing in December 2012 is US\$3,846,901.89.

Issues

Initiator's claim

The issuing bank and the reimbursing bank have jointly and severally defaulted in payment to the Initiator after the issuing bank accepted the presented documents under the L/Cs, and the reimbursing bank's suspension of reimbursement under instructions of the issuing bank constituted a contractual breach.

Respondents' replies

The reimbursing bank contends that the authorization to reimburse the Initiator was withdrawn by the issuing bank, and the reimbursing bank ceased to have any payment obligations towards the Initiator.