

The law of unintended consequences

Shiparrested.com Conference, Malaga

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Agenda

- Background
- A straightforward arrest
- The law of unintended consequences
- Back to the arrest
- Coda

Background

The dispute

SANTA MARIA



RG (HK)

Owner

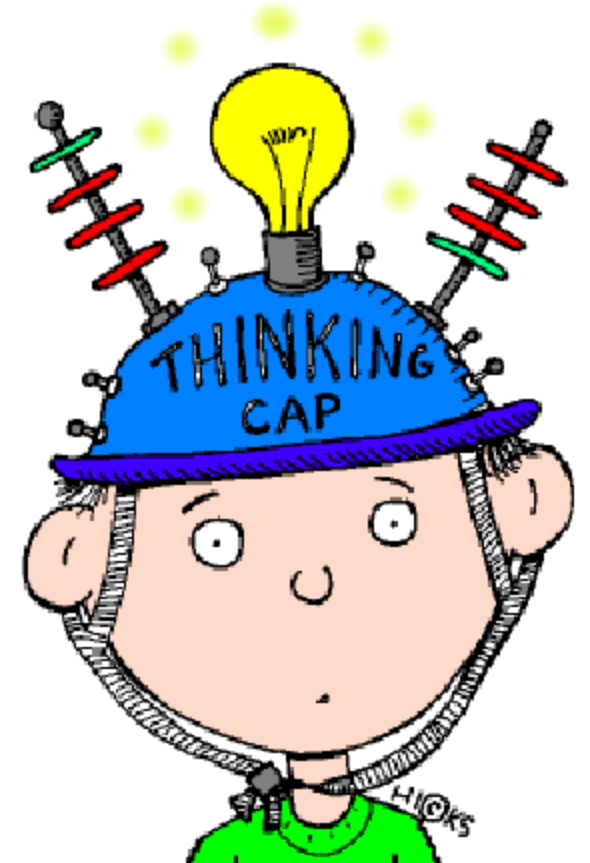


BB Shipping

Bareboat charterer

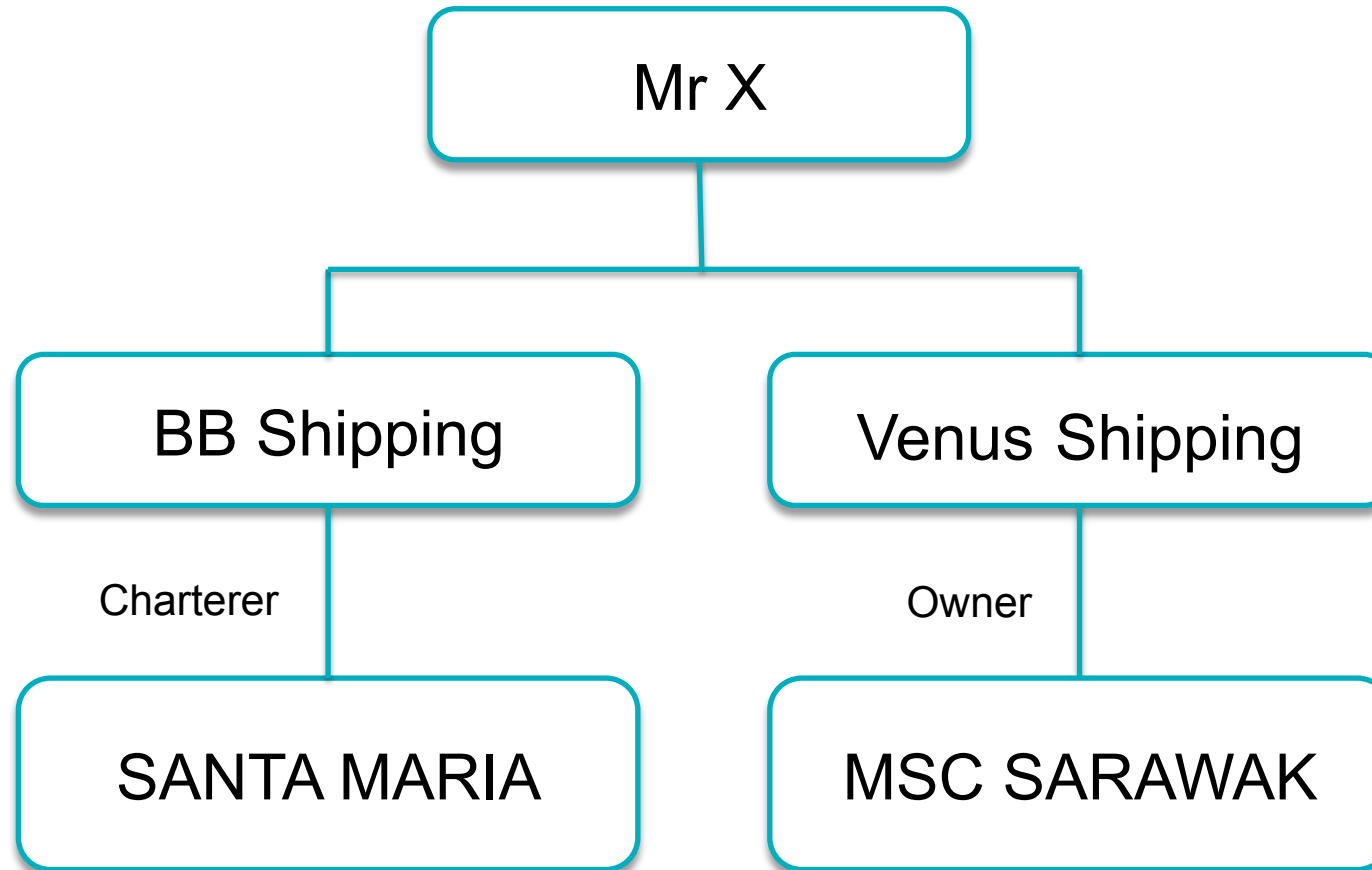
What did we do?

- Withdrew vessel
- Commenced London arbitration
- Obtained interim awards for US\$2.3 million
- But how to enforce?
 - BB Shipping did not own any ships
 - But the ultimate beneficial owner indirectly owned 4 vessels
 - 1 of them operated a feeder service in South Africa
 - Could we arrest there?



A straightforward arrest

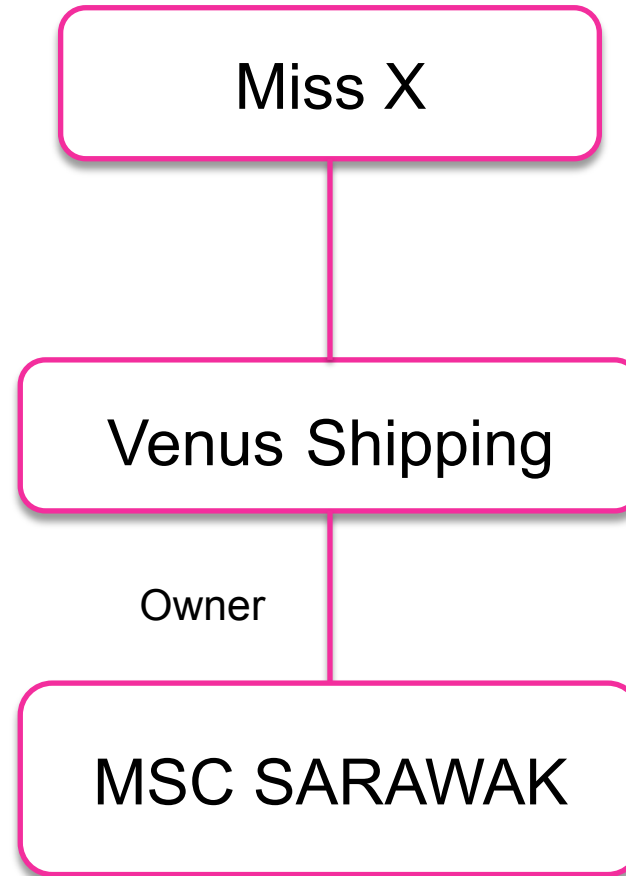
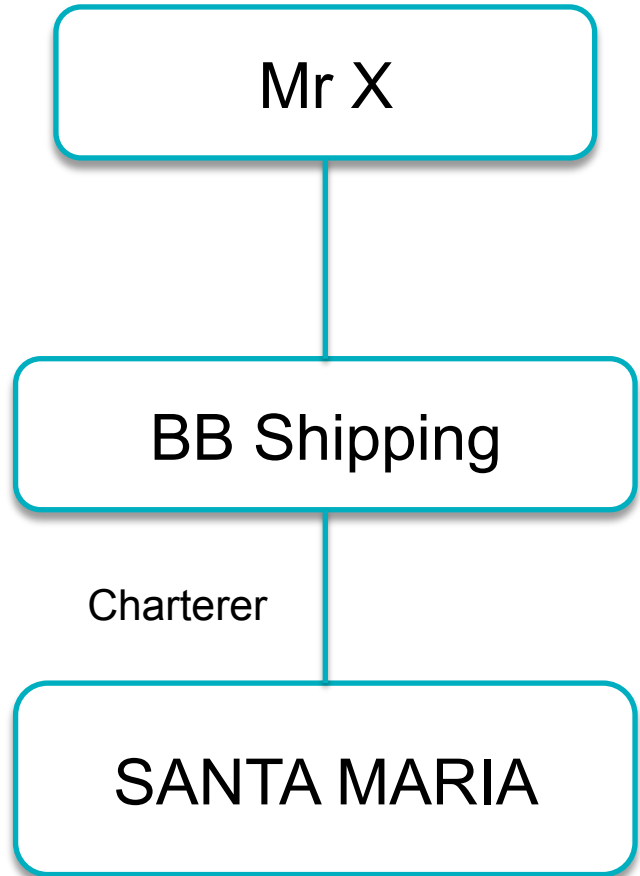
Associated ship arrest in South Africa



MSC SARAWAK

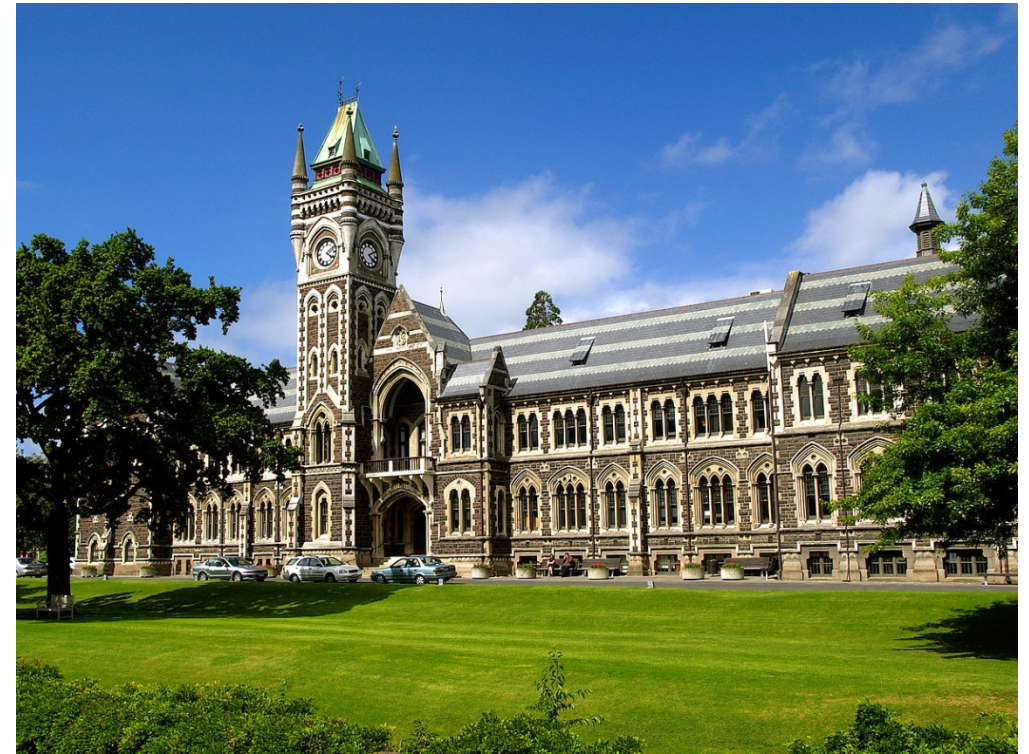


Defence: “*Wrongful arrest!*”



Had ownership really changed?

- Company records suggested it had, but was Miss X really a shipowner...



The law of unintended consequences

A disappearing act (but not the one you were thinking of...)

- SANTA MARIA
 - Loaded 160,000 mt iron ore in Brazil for carriage to China
 - Due to bunker at Singapore
 - But never made it
- Where had she gone?
 - AIS, INMARSAT, etc not responding
 - No noon reports being sent
 - Master not answering satellite phone
 - BB Shipping not responding to enquiries



What did we do?

- Injunction against BB Shipping
- Contact police / marine police / marine department
- Third-party discovery order against ship's communications provider
 - All email correspondence with the vessel
 - All telephone records from the vessel
 - All records of the vessel's position
- Information about a crew change in Xiamen
- Obtained quotes for satellite imagery



Meanwhile, in South Africa...

LATEST JOBS Vetting Team Leader

South African authorities up in arms after arrested Chinese boxship leaves Durban

November 17th, 2011 23:01 GMT by Jonathan Boonzaier Singapore

Published in [WEEKLY](#)

Legal authorities in the South African city of Durban are hopping mad after an arrested containership belonging to Tianjin Centrants Shipping, part of China's Centrants Ocean Shipping Logistics Group, did a midnight runner from their port.

The 2,515-teu *MSC Sarawak* (built 1983) had been seized in Durban in late September on behalf of Greece's Aires Energy Maritime and Hong Kong's Noble Group as security for claims involving the failed charter of a capesize bulker belonging to Rubin Grace (HK), a company completely controlled by Aires.

‘Moonlight flit’

Instead of making a formal challenge to the arrest, the MSC SARAWAK simply fled the jurisdiction

Leaving behind ship's documents and some rather angry locals...



What became of the MSC SARAWAK?

Ownership

LAST REPORTED

No ownership data available

03 Apr 2012

Beneficial Owner
[Indian Breakers](#)



India

*From 03 Apr 2012
to 12 Apr 2012*

Commercial Operator
[Indian Breakers](#)



India

*From 03 Apr 2012
to 12 Apr 2012*

Registered Owner
[Indian Breakers](#)



India

*From 03 Apr 2012
to 12 Apr 2012*

Technical Manager
[Indian Breakers](#)



India

*From 03 Apr 2012
to 12 Apr 2012*

Coda

All's well that ends well?



Lessons to be learnt

- If you withdraw a vessel from bareboat charter, put your own crew on board immediately
- In South Africa, consider putting armed guards on board an arrested vessel
- Never take a 'change of ownership' at face value



RPC