



Sometimes Arrest is Best

June 2019 | Lucy Goff (LA Marine, UK)



Stretching the Definition of “Strange”

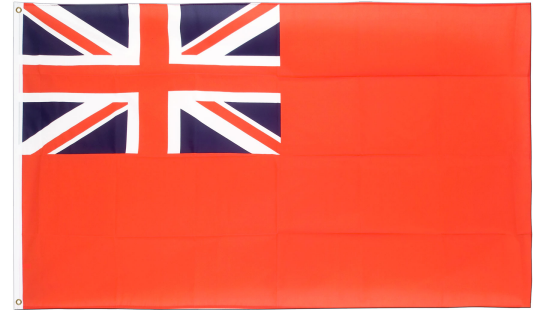
→ On the face of it straightforward

→ Arrest of UK flagged workboat in UK port

→ Two interesting points:

→ Protecting asset;

→ Protecting client from increased costs/ potential claim



Background

- Acting for Finance House in respect of loan over a Wind Farm Vessel
“OCEAN WIND 7 OF HARTLEPOOL”
- Mortgagor defaults
- Mortgagee served notice
- Subsequently took possession



Power of Sale

- ➔ Obtained Valuation Report with a view to selling.
- ➔ Managers of the vessel
 - ➔ Uncooperative;
 - ➔ Took steps to make viewings difficult
 - ➔ Real concern items being taken from vessel – life rafts removed, batteries

“If we sell the vessel, or attempt to sell the vessel Ocean Wind 7 of Hartlepool without him getting paid what he is owed, he promises to remove every part of the vessel....”

The “Sea Trial”





No response to proceedings/ arrest



Application for Default Judgment



Default Judgment Order for Sale



Sale through Admiralty Marshal's broker



Priorities Hearing



Still no response from the Defendant Company

“OCEAN WIND 8”: Close Brothers Ltd v AIS (Marine) 2 (in liquidation) and another QBD (Admlty Ct) (Jervis Kay QC, Admiralty Registrar) [2018] EWHC B14 (Admlty)

- ➔ OW8 – sold January 2017 for £1,700,000.
- ➔ Shortfall under mortgage - £200k
- ➔ Mortgagee pursued guarantor – Director of Defendant Company
- ➔ Guarantor alleged sale at undervalue
- ➔ Held by QBD (Admlty Ct) (Jervis Kay QC, Admiralty Registrar) that judgment would be given for the Mortgagee.



Why Arrest?

➞ Protecting the asset

**CONTEMPT
OF COURT**

➞ Sale undertaken by Admiralty Marshal's broker

➞ AM obtains valuation – not to be sold for less unless Court order permits

