



OW BUNKER

LESSONS LEARNED 10 YEARS AFTER

HARALD SØNDERGAARD

APRIL 2025

HAFNIA LAW FIRM LLP • INTERNATIONAL COMMERCIAL LAWYERS

OW Bunker – Brief timeline

- **World-leading bunker supplier**

- Domiciled in Nørresundby, Denmark
- Offices in 29 countries
- Annual revenue of USD 17bn

- **Dramatic Collapse**

- April 2014 – IPO
- Autumn 2014 – Losses in Risk Management department (USD 150m)
- November 2014 – Losses in Dynamic Oil Trading (USD 125m)
- 7 November 2014 – bankruptcy declared



OW Bunker – Recovery Action

- Outstanding receivables of ~USD 1.1bn
- Usually, 30 days' credit
- Financed by syndicate of lenders lead by ING Bank (EUR 750m)
- Receivables assigned to ING Bank as security

What's the problem?



OW Bunker – Differences in perception?

- How are ‘normal’ recovery actions organised?
 - Debtors ‘usually’ pay their debts
 - Focus on biggest outstandings
 - Focus only ‘customer’
 - Acceptance of insolvency
- How are shipping recoveries different?
 - The biggest customers are least important
- There are other stakeholders besides the customer



OW Bunker – Claims from physical suppliers

- First come, first served...
- Physical suppliers **immediately** began arresting ships
- Threatened with arrest unless payment was made to **them**
- Main arguments were:
 - Title had not passed
 - Contract by way of Clause L4
 - (US law) maritime lien



OW Bunker – Retention of title

- What **law** applies to ownership?
- Where are the goods **located**?
 - Place of delivery?
 - Place of arrest?
 - Sellers' home jurisdiction?
 - Law of flag of the vessel?
- What are the legal requirements for retention of title?
 - Has the retention been agreed?
 - Are the goods preserved?
 - Can they be identified?



In practice, difficult to establish retention of title

HAFNIA LAW FIRM LLP • INTERNATIONAL COMMERCIAL LAWYERS • <nr.>

OW Bunker – The infamous clause L.4

(a) These Terms and Conditions are subject to variation in circumstances where the physical supply of the Bunkers is being undertaken by a third party which insists that the Buyer is also bound by its own terms and conditions. In such circumstances, these Terms and Conditions shall be varied accordingly, and the Buyer shall be deemed to have read and accepted the terms and conditions imposed by the said third party.

OW Bunker – US maritime lien claims

- Numerous **arrests** and **interpleaders** commenced in the United States
- US maritime law **recognises** maritime lien for bunker supplies
- Bunkers must have been ordered by someone **acting on behalf of the ship**
 - E.g. ship owner, operator, manager or time charterer
- A sale by a physical supplier to OW Bunker did not qualify as any of these
- Other avenues also pursued e.g. *quantum meruit*



OW Bunker – Lessons learned

- Ship arrest and the threat thereof remains a **powerful tool** in claim recovery
- Recovery of bunker receivables **differs** significantly from 'normal' recovery
- **Successful** ship owners kept calm, posted security, and trusted the law
- The bunker trading **industry** has **not changed** fundamentally (so hold tight for the next one...!)



OW Bunker – Lessons learned

Thank you for your time