

SCMA TEA TALK

“When is a sale not a sale? When its OW Bunker.”

Presented by Mr. Stephen Hofmeyr QC and Mr. Stephen Du – 7KBW Barristers

REGISTER NOW! LIMITED SEATS!

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DATE

1ST September 2015, Tuesday

TIMING:

3.00pm to 5.00pm

VENUE

32 Maxwell Road
Level 3 Maxwell Chambers

FEE

SCMA Corporate Member:

1st: FREE 2nd: \$35.00

**No show charges of \$35.00 apply if the free registrant fails to turn up after confirmation.*

SCMA Individual Members: \$35.00

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HOW TO REGISTER:

Kindly email the completed registration form to Tammy Tan by 28th August 2015 at tammy@scma.org.sg

SYNOPSIS

(1) PST Energy 7 Shipping LLC (2) Product Shipping and Trading S.A. v (1) OW Bunker Malta Ltd (2) ING Bank N.V. [2015] EWHC 2022 (Comm)

This is the first case arising out of the collapse of the OW Bunker group to reach the English Commercial Court. The sudden demise of OW Bunker has convulsed the shipping market, with hundreds of vessels that received bunker stems arranged for them by OW now wondering whom, if anyone, they should pay. Many market commentators took the view that claims made by ING/OW could not succeed in circumstances where OW itself never paid for or became the owner of the bunkers, under the Sale of Goods Act 1979 (“SOGA”).



Robert Bright QC and Marcus Mander from 7KBW successfully argued that OW’s contracts with the Owners should not be treated as “contracts of sale”, with the result that SOGA does not apply to them at all. This argument has prevailed twice over, first in a commercial arbitration before LMAA arbitrators, and now again before Males J in the Commercial Court. The standard terms on which nearly all the OW group’s business was conducted provided for English law. Many other bunker suppliers contract on similar terms which are also subject to English law. This is the first case to decide authoritatively and as a binding precedent what the effect of those standard terms is, as a matter of English law. It is likely to affect all the disputes involving OW (and potentially other bunker suppliers), whether being determined in England or elsewhere. It also has great significance for the position of physical suppliers, whose claims for payment must now be seen as very difficult in most cases. The judgment will be of particular interest to other OWB customers as well as the wider bunker market, but is also an important decision in relation to the sale of goods generally and the ambit of SOGA.

Organized by:



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SUPPORTING ORGANIZATION:



PROGRAMME

- 2.30pm – 3.00pm Registration**
- 3.00pm – 3.05pm Opening by Mr. Lee Wai Pong, Executive
Director Singapore Chamber of Maritime
Arbitration**
- 3.05pm – 4.05pm Speech by Mr. Stephen Hofmeyr QC and Mr.
Stephen Du - 7KBW Barristers**
- 4.05pm – 4.25pm Q&A Session Moderated by Mr. Lee Wai Pong
& Mr. Paul Aston**
- 4.25pm – 5.00pm Tea Break / Networking**
- 5.00pm End of Programme**

ABOUT THE SPEAKER



Stephen Hofmeyr QC
7KBW Barristers

Mr Stephen Hofmeyr QC is a leading commercial barrister with a wide-ranging international commercial law practice. His relatively unique combination of legal and accounting qualifications has equipped him to specialise in all aspects of commercial law and make him particularly suited to complex commercial disputes. The areas of commercial law to which Stephen has been most exposed and with which he has had most experience range from the general contractual to the more specialized, such as insurance and reinsurance, financial services and banking, professional negligence, aviation, rail, shipping and company law (in particular, shareholder disputes and claims against directors).

The primary focus of Stephen's practice is advocacy, but also involves a significant amount of related advisory work. He is equally adept in long commercial trials and international arbitrations (which typically demand an ability to assimilate and distil complex facts, a mastery of difficult technical issues, lengthy examination of witnesses, tactical skill, and detailed and meticulous planning and preparation), and interlocutory hearings and short appearances before first instance or appellate courts (which generally demand careful legal analysis, tactical appreciation and commonsense). He appears most frequently in the Commercial Court in London, in international arbitrations (ICC, ICSID, LMAA, LCIA and other arbitration courts) and on appeal from these tribunals to the Court of Appeal, the House of Lords and the Privy Council. He has also appeared in the Supreme Court of the Commonwealth of the Bahamas, in the Court of Appeal of the Eastern Caribbean Supreme Court and in the Privy Council sitting in the Bahamas. He is very much a "team player", operates an informal "hands-on" approach and is very accessible.

General Information

Stephen Hofmeyr QC is from South Africa and graduated from University of Cape Town where he was awarded a Bachelor of Commerce in 1976 and an LLB in 1978.

In 1979 Stephen was awarded a Rhodes Scholarship and went up to Oxford to read law, receiving an MA in Jurisprudence in 1982. He was also a rugby blue.

He qualified and then practiced as a solicitor in Cape Town between 1983 and 1985.

Following a pupillage with Gavin Kealey in 1986, Stephen became a member of 7 King's Bench Walk (7KBW) in 1987 and has practiced full time in these Chambers ever since. He took Silk in 2000, was appointed a Recorder (County and Crown Court Judge) in 2005 and a Deputy Judge of the High Court in the Queen's Bench Division in 2008. Stephen was admitted to the Bahamas Bar as Counsel and Attorney in 2005 and as a Barrister and Solicitor of the Eastern Caribbean States Supreme Court in 2012.

ABOUT THE SPEAKER



Stephen Du
7KBW Barristers

Stephen Du has a developing practice in commercial law, with a particular focus in insurance and reinsurance, commercial litigation, shipping, banking & finance, private international law and civil fraud. He is equally comfortable being instructed as sole counsel or as part of a team. Stephen is fluent in Mandarin Chinese.

A recent high profile case he has been involved in was **Republic of Djibouti v Boreh**: acting (as junior counsel) for Mr Boreh in defending claims by the Republic of Djibouti in the Commercial Court alleging abuse of his position as Chairman of the Djibouti Ports and Free Zones Authority.

Stephen has also acted (as sole counsel) on behalf of a construction company defending claims by its former director and its former senior manager for unpaid fees, and pursuing counterclaims against them worth in excess of £2 million for breaches of various contractual and fiduciary duties.

ABOUT THE MODERATOR



Paul Aston
Holman Fenwick Willan Singapore LLP

Paul acts for clients in the maritime, offshore and commodity sectors (mainly Oil and Gas). He specialises in all aspects of shipping, transport and insurance, down and midstream oil and gas transactions, ship building and repair disputes, advising shipyards and buyers on contracts for the construction of various offshore structures, (rigs/FPSO) as well as their utilization offshore.

He has particular expertise in relation to long and short-term contracts for the supply, transportation, sale and purchase, and storage of petroleum products and LNG. He advises on commercial transactions and shipping projects.

Paul has worked in London, Shanghai, Hong Kong and Singapore HFW offices, and is presently head of the Singapore office with particular responsibility for Offshore and Energy. He has been appointed by the Singapore Mediation Centre as one of their associate mediators.

He is described as "professional and quick to respond" in Asia Pacific Legal 500 and also as "highly recommended". Paul is an accredited mediator and has substantial experience of international arbitration in many jurisdictions.

REGISTRATION FORM

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I would like to attend the tea talk:

Name: _____ Dr Mr Miss Ms Prof Others (_____)

Organization: _____

Designation: _____ Email: _____

Tel (Office) _____ Mobile: _____

Registration Fees

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Payment Mode

I (we) enclose a Cheque No. _____ of \$ _____ to be made payable to Singapore Chamber of Maritime Arbitration and kindly mail to:

32 Maxwell Road
#02-14 Maxwell Chambers
Singapore 069115
Attn: Tammy Tan

1. Closing date for registration is **28th August 2015**
2. Registrations received on or before the closing date are confirmed upon receipt of full payment.
3. The SCMA reserves the right to cancel or postpone the seminar in which case refunds will be given, but otherwise no refunds will be made for cancellations or not shows but those who registered.
4. For enquiries, please email tammy@scma.org.sg or call us at Tel: 6324 0552