ANDREW LIU & CO LTD

Units 01-04, 19-24,18th Floor

41 Heung Yip Road,Wong Chuk Hang, Hong Kong

Circular Ref: 2020/0008
Date: 31 July 2020

Are All Intermediary Parties Brokers? Beware

In a new case , *CH Offshore Ltd v Internaves Consorcio Naviero SA and Others – QBD (Comm Ct) (Moulder J) [2020] EWHC 1710 (Comm)* – 1 July 2020, it made clear that intermediaries that are neither brokers nor agents in concluding the fixture owe no fiduciary duty. In this case, the matter was appealed to High Court from the Tribunal's decision and appeal was accordingly dismissed.

In most charterparties, there are usually brokers involved from both sides. But at times in bigger deals, there are more intermediary parties that have their own agreements with one of party. These intermediaries owe no fiduciary duty to get the best deal for their principals and have their own commission agreements with one of the parties. Those commission agreements can be enforced by such intermediaries that are neither agent/broker. These intermediaries duty might be just one such as passing up and down the messages correctly.

ALCO's FDD department advice to the Andrew Liu's clients is that:

a) The clients must be aware of all the parties involved in concluding the fixture.
b) The clients should confirm from each party as to what capacity they are acting in assisting them to conclude the fixture.
c) Such litigations are too expensive.
d) FDD department has assisted many clients to resolve their broking dispute using both carrot and stick approach.
e) FDD department can be contacted anytime 24 x 7 in case of emergency. In some cases, FDD department has assisted clients to collate the evidence before it could have been lost and saved a great deal of money for ALCO's clients.

Source of Information: Andrew Liu & Co., Ltd www.andrewliu.com.hk