

THE CHARTERER

THE CHARTERERS P&I CLUB NEWSLETTER

December 2008

HOW CHARTERERS CAN UNDERSTAND MARINE INSURANCE *by Michael Grey*

In the world of maritime commerce, the charterer was always regarded as the shipowner's customer, and as we know, the customer is always right. The owner was the "man who carried the can" in terms of any liabilities that were in the offing, while the charterer traditionally had something of a privileged position. It was, after all, the owner, and his representative the master, upon whom the responsibilities for the safe prosecution of the voyage devolved. As the customer, the charterer was less identifiable, and if the worst happened, as occasionally it does, it would be the owner who would be seen as responsible for the wreck of the ship, or the cargo strewn across many miles of beach.

It is difficult to identify the precise time when this balance subtly changed and the charterer found himself as exposed as the owner. In the 1990s, there was much debate about "quality" shipping, and the charterer was identified as one of the vital links in the chain of responsibility for this elusive factor. There were some notable cases, where charterers were identified as somehow morally liable for hiring ships which were subsequently identified as deficient. The inference was that if they had not taken the trouble to charter them, then the fatal voyage would not have taken place. Furthermore the case would not infrequently reveal that the charterer's action had been prompted by the "bottom line", and the ship had been chartered because she was cheap.

In vain the charterer would protest that the vessel was in class, that her certificates were in order, and that the charterer could not be expected to closely inspect every ship before it was hired. Does a person hailing a taxi, it was asked, demand to minutely inspect the

provenance of the vehicle before entering it? Such an argument might have worked once, but not in an era of blame and the apportionment of responsibility for any accidents which might occur.

Blame implies liability and in such an era as we are living in today, charterers need to fully understand their responsibilities as an important link in the transport chain. Above all, however the charter party might be constructed, and the balance of responsibilities between owner and charterer, the latter must be as well versed as the former on matters of insurance, if he is to be properly protected.

Charterers' Liability Insurance – Essential Best Practice is a practical guide written specifically for time charterers, voyage charterers and cargo traders to acquaint them with the marine insurance market and how their liabilities might

be properly protected.

The authors of this accessible and readable book introduce the reader to the principles of marine insurance, thence focussing on the charterers' insurance market and its various sectors. A complete section concentrates on issues which the charterer cannot ignore, including maritime conventions, shipowners' liabilities and the matter of sub-standard ships. A further section covers charterers' insurance practice, and includes legal responsibilities, contracts, dispute resolution, charterers' liability for bunkers, cargo liability, underwriting and claims management. This is an important book which provides charterers with the information they need to understand the risks of a marine adventure and practical matters of marine insurance.



MICHAEL GREY

AN AIM ACHIEVED!

The Charterers P&I Club has been aware for some time of the lack of reading and reference material on the subject of charterers' liability insurance. For many years we have been asked whether we knew of a reference guide or book available that would bring the many facets of chartering and insurance together; until now the answer was no. The dream to fill this void and produce a book aimed at the chartering market finally became a reality when in 2006 Heinz Gohlisch undertook the project to write *Charterers' Liability Insurance – Essential Best Practice*.

With his general market experience and specific knowledge of charterers liability, particularly his involvement with the Charterers P&I Club since 2003, Heinz was ideally suited to undertake the task. Prior to his involvement with the Charterers Club Heinz held a senior position in a major London based P&I Club where he spent 12 years as a specialist in charterers' liability. The knowledge gained here and subsequently as the Executive Director of the liability department for a Lloyd's broker gave him a truly detailed insight into the practical and technical aspects of underwriting liabilities and to many of the key aspects of the complexities of claims. Prior to joining the insurance industry Heinz spent 10 years at sea and has contributed regular features to various shipping and naval journals. Orchestrating the input of a variety of experienced practitioners, including many of the Club's own staff, Heinz has produced a balanced commentary on risk

management from a charterer's perspective together with an analysis of the insurance solutions available. Notwithstanding the valuable contribution of others, this book, published by Witherby, reflects Heinz's own opinions as an independent author and is not an in-house publication.

Christopher Else, Managing Director of Michael Else and Company Limited, managers and underwriting agents of The Charterers Club describes *Essential Best Practice* as "being targeted at those who have an interest in chartering activity, but do not possess a detailed understanding of the attendant liability exposures; or the means by which such exposure can be managed, particularly by way of insurance protection." He goes on to say that the book is "intended as a general point of reference and therefore deliberately avoids too much detailed technical analysis of certain

trades, cargoes or jurisdictions; nevertheless, it will still be of interest to more experienced practitioners".

Many charterers possess a basic awareness of their exposure, but lack experience in this field and often have little understanding of the arcane practices of marine insurance. This book should prove invaluable, not only to charterers but also to those with an interest in shipping, or to students of maritime commerce and insurance who wish to gain a deeper and more practical understanding of this specialist subject.



HEINZ GOHLISCH

‘...A WELCOME ADDITION TO AN OPERATOR’S LIBRARY’ *Says Julian Clark of HFW*

I was honoured to respond on behalf of HFW to contribute towards this important publication in relation to charterers liabilities. While there are a host of legal guides which, in part, deal with the position of charterers they are often written from an owners perspective with the charterers position being something of an add on or after thought. This new publication brings a breath of fresh air into the field by approaching a number of key issues directly from the charterer’s perspective.

As international shipping has developed the complexity of operations and particular issues facing charterers has directly increased. The ready availability of pre-emptive security by way of a Rule B application means that charterers are more readily exposed to action which can have serious implications on their business. In such circumstances it is extremely

important that charterers are fully aware of the risk scenarios involved in their operations. In addition a number of landmark legal decisions have placed particular emphasis on the relationship between owners and charterers and it is therefore important that charterers are able to have access to a guide which provides an essential safe route through what more and more are becoming extremely troubled waters.

The book should be a welcome addition to any operator’s library and demonstrates the commitment to the chartering market which has been an essential component of Michael Else & Company since the initial formation of the Charterers Club in 1986.

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WITHERBYS – THE PREFERRED CHOICE TO PUBLISH ‘ESSENTIAL BEST PRACTICE’

The decision by The Charterers Club to choose Witherbys to publish *Charterers Insurance – Essential Best Practice* stems from their relationship with the Witherby Group of Companies on the printing side which goes back many years.

Witherbys are known internationally as the leading publisher in their field of insurance which began by Alan Witherby publishing two books on Marine Insurance and expanding publishing into all areas of Insurance and Reinsurance. This naturally led to publications covering every aspect of the marine industry in particular the safe movement of oil and gas across the world. But they are perhaps best known for “Witherbys Clauses” which are used extensively throughout the marine insurance industry. Their success was recognized in 2007 when the company was awarded the Queen’s Awards for Enterprise – International Trade.

In January 2008 Witherbys Publishing merged with Seamanship International to form Witherby Seamanship International Ltd. Their combined qualities continue to emphasize the aim of producing clearly written and well designed

publications for all nationalities with quality diagrams, pictures and graphs, backed by new technology such as e-books, CD Library and a user friendly informative web-site.

Prior to the merger, Seamanship International had already achieved recognition as Seatrade Awards finalists. Within three months of the partnership WSIL had won a further accolade, the Lloyd’s List Award for Training.

Commenting on *Essential Best Practice* Alan Witherby said that he was proud to be associated with the launch of the book which he believes to be “a unique distillation of knowledge in the tricky area of marine insurance which Heinz Gohlish has tackled with great wisdom to achieve a concise, readable text. The publication itself is unusual for a book of this nature being printed four colour with liberal use of illustrations, figures and diagrams”.

The book can be obtained direct from Witherby Seamanship International Ltd for details see their website www.witherbyseamanship.com or from the leaflet enclosed.

GHERKIN CELEBRATION

Michael Else and Company Limited welcomed over 200 guests to a Maritime Reception at 30 St Mary Axe ("The Gherkin") on 12th November 2008.

In a short speech welcoming the guests, Christopher Else thanked everyone for attending what he described as a special occasion, at a very special venue. He thanked the staff for all their hard work during what he described as a very successful and extremely busy year for both brands, Transmarine and The Charterers P&I Club.

He went on to say that the Charterers P&I Club had a particular reason to celebrate with the publication by Witherby Seamanship of *Charterers Liability Insurance – Essential Best Practice*, written independently by Heinz Gohlish, the Club's underwriting manager. He said that the publication of this book was the first comprehensive work covering all the general aspects of this technically complex area of insurance dealing, as it does, solely with risk from the charterer's perspective.



CHRISTOPHER ELSE

In spite of the sharp down turn in freight rates and the prospect of more difficult market conditions ahead, Christopher remained upbeat for the future saying that the Company was well placed because it was in good shape to absorb any negative impact from a depressed freight market and ready to capitalise on the inevitable opportunities that arise when conditions are so volatile. He went on to note that many charterers would in fact benefit from a market where the balance of power between charterer and owner had shifted so heavily in favour of the charterer.

In closing, Christopher paid tribute to the vision of Michael Else in setting up Transmarine in 1974 and masterminding the creation of the Charterers P&I Club in 1986. He went on to explain that following a management buy-out last year Michael had retired from the business and had agreed to serve as non-executive chairman. On behalf of all the staff he thanked Michael for his legacy and asked the guests to join him in a toast to Michael's retirement.

WELCOME BACK

After completing his degree in Banking, Insurance and Finance in 2000 **Lachlan Morison** then joined Michael Else as an Underwriting Assistant. He then went on to work in property insurance before working for a P&I Club as Assistant Underwriter where he gained valuable experience in the P&I Market.

Lachlan rejoined Michael Else in June 2008 as Deputy Underwriting Manager where he takes an active role in both renewals and new business, as well as assisting in the day to day running.

WELCOME TO

Kalliopi Dalakleidi joined the team at Michael Else & Company in September 2008. She studied law at the Aristotles University ofThessaloniki and qualified as a solicitor in Greece. Kalliopi went on to complete a Masters degree (LLM) in International European and Commercial Law at the University of Sheffield.

While she was completing her Masters degree Kalliopi joined E.G.Arghyrakis & Co. as a legal assistant where she qualified as a solicitor in the United Kingdom. Kalliopi worked as a legal assistant and assistant solicitor for 4 years and she has valuable experience in wet and dry shipping disputes. Kalliopi is also fluent in Greek and in English.

AND.....

Andrew Stylianou joined the team at Michael Else & Company in September 2008. After completing his Law Degree in 2004 at the University of Kwa-Zulu Natal, he trained at a law firm in Durban and qualified as a Lawyer in South Africa. Andrew went on to complete a Masters in Maritime Commerce majoring in Maritime Studies and duly received his Solicitors certificate of eligibility to practice within the United Kingdom in 2007. Prior to joining Michael Else & Company, he gained practical exposure into admiralty legal work at a leading Maritime Solicitors firm in London. Andrew is fluent in both English and Greek.

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