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Circular letter no. 23

The Containership Company (TCC) A/S in bankruptcy, Baltikavej 24, 2150 Nordhavn - CVR no. 32561543

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| Trustee | Jørgen Hauschildt, lawyer |
| Reference date | 11 April 2011 |
| Date of bankruptcy order | 7 December 2011 |
| Management board | Franck Johannes Kayser |
| Board of directors | Tom Fruelund Anne Mette Enoksen Naja Dannow |
| Auditor | KPMG Statsautoriseret Revisionspartnerskab |
| Expected completion of the administration of the estate | I expect to complete the administration of the estate at the end of 2020 |
| Expected dividends | The estate will be completed according to s. 143 of the Danish Bankruptcy Act (<i>konkursloven</i>) – without dividends |

Account regarding legal proceedings in New York

As described in circular letter no. 22, the Bankruptcy Court of New York was of the opinion that each shipper was entitled to send all its remaining TEUs by way of exactly the last four voyages even though it explicitly appeared from the service contracts that the containers, if possible, were to be sent continuously throughout the contract period and despite the fact that the opposing parties, at the time of suspension, still needed to send more than 100,000 TEUs and that the total capacity of the vessels for the last four suspended voyages would have been less than 10% thereof in total – and that essentially none of the opposing parties had booked space on the last four vessels.

The proposed decision was subsequently to be assessed anew by the United States District Court for the Southern District of New York. The District Court rendered its judgment on 19 September 2019 in which the proposal from the Bankruptcy Court in New York was elevated to judgment (the "Judgment").

On 24 January 2020, the bankruptcy court appealed against the judgment to the United States Court of Appeals, and the trial was conducted on 29 September 2020.

On 8 October 2020, the United States Court of Appeals rendered a judgment which unfortunately upholds the judgment rendered by the United States District Court.

It is thus the opinion of the Court of Appeals that TCC's suspension of the last four voyages of which only two were open for bookings with a total capacity of 5,200 TEUs deprived the shippers of the possibility of shipping more than 100,000 TEUs, for which reason the shippers were not to be liable for the lacking shipments.

The Court of Appeals has thus essentially rendered a judgment on the same basis as the District Court. So it was the assessment of the Court of Appeals that the shippers would have been able to ship more than 100,000 TEUs with the last vessel with a capacity of 2,700 TEUs.

To counter such an argument, TCC's contracts contained a provision stipulating that the containers were to be shipped evenly throughout the year, but it was the assessment of the Court of Appeals that "*shipped evenly throughout the duration of the contract*" was not sufficiently clearly defined to mean that the shippers should have sent their cargo evenly throughout the year, as this part of the agreement did not contain "*clear guidelines against which to measure such efforts*".

The Bankruptcy Estate finds it extremely difficult to follow the arguments and reasoning behind this decision of the Court of Appeals but must take note of the judgment, as it was court of third instance.

Completion of the estate

On the above basis the estate will subsequently be completed according to s. 143 of the Bankruptcy Act without dividends for the claims proved against the estate.

Final report and final statement of receipts and payments are expected to be submitted to the bankruptcy division of the Maritime and Commercial High Court by the end of November 2020 at the latest.

Yours faithfully

Jørgen Hauschildt
No signature required