

SHIP MANAGEMENT

INTERNATIONAL

Issue No 68 July/August 2017

Shining a light on maritime diversity

Focus on the British Isles & Ireland



Don't get stuck with owners' debts



Robert Hodge, a senior account executive with International Transport Intermediaries Club (ITIC), explains why ship managers must make their status clear when signing purchase orders or other communications with clients and suppliers.

Ship managers must be extremely cautious when signing purchase orders. ITIC has seen an increase in the number of claims being made by suppliers against ship managers because owners have not settled their bills. The supplier has subsequently pursued the manager on the basis that the purchase order created a contract directly between the supplier and the manager.

The authority granted to ship managers under a management agreement in accordance with BIMCO Shipman 2009 states that the manager is acting for and on behalf of the owner. This gives managers the authority to purchase supplies for the vessel and bind the owner contractually. If the owner fails to pay, the sales contract is between the owner and the supplier, but not the manager. It is therefore very important that managers ensure that the purchase order clearly states that they are acting as agent for the owner when ordering supplies.

What managers should not do is state that these supplies are 'for the account of XYZ Ship Management Company'. If managers have that form of words on their purchase orders, they

should change them immediately, unless they specifically want to order supplies in their own name and so take the credit risk.

The use of the word 'agent' alone - as in 'Joe Bloggs, agent' - will not be sufficient, being merely descriptive in the same way that 'Julia Roberts, actress' is descriptive. In order to avoid liability, managers must alter the printed words to state 'as agents only', always followed by the identity of their principals.

ITIC was asked to advise a ship manager who was required to complete a document by a port authority prior to the arrival of a ship. The form included the words: 'We agree that we will be responsible for all charges.' At the end of the printed line, space was provided for the addition of the name of the party submitting the form, together with the words 'owner/charterer/agent (delete as applicable)'.

Selecting only the word 'agent' would not release the manager from its personal obligation to pay the port charges. The word 'agent' is merely descriptive of the business. In order to avoid personal liability, managers must change the printed words to read 'as agents only', followed by the identity of their principal.

WHEN SIGNING PURCHASE ORDERS, ITIC SUGGESTS THE FOLLOWING:

1. At the top of the purchase order, include the following words: 'Please invoice this order to: --- (name of owner or bareboat charterer etc.) c/o XYZ Shipmanagement Company Limited';
2. When signing off the purchase order, it should be in the following style: 'for XYZ Shipmanagement Company Limited as agents only for and on behalf of --- (name of owner/bareboat charterer)'.

Furthermore, it is important that the manager states in which capacity he is acting, not only in connection with purchase orders but in all communications with clients and suppliers, whether by letter or by email.

Managers should sign off automatically as agents for their principals.

Those who make their agency status clear should avoid problems if ship owners do not pay their bills. Although this will not prevent suppliers

trying to sue the ship manager, it will be very difficult to prove that they did not know with whom they were contracting, and they will therefore have to look to the ship owner and not the ship manager for payment. ●