

ING sticks to its guns in US legal fight over OW

Bank's lawyers file string of counterclaims and ship arrest cases to collect on \$700m credit facility

ING Bank has continued efforts in US courts to press its claims to fuel bills owed to OW Bunker when it collapsed late last year.

Lawyers for the Dutch bank have filed a string of counterclaims in New York and secured more vessel arrest orders in a drive to collect on a \$700m credit facility that was secured by OW's accounts receivable.

Court records show that the bank's Seward & Kissell lawyers, led by partner Bruce Paulsen, filed a \$10.6m counterclaim last week against Singapore's APL.

The move was in response to the liner operator's lawsuit to protect nine containerships from arrest amid the continuing industrywide confusion over whom to pay for OW's fuel bills. ING, OW's surviving entities in the US and Singapore and physical suppliers have all been chasing owners and charterers for the same money.

ING's move in the APL case was the largest of a series of counterclaims by the bank in so-called "interpleader" lawsuits, in which bunker buyers deposited funds with the New York federal court and asked for an order blocking arrests. There are more than a dozen such cases on the court's docket.

Meanwhile, records show that ING filed federal lawsuits aiming to arrest at least four vessels in March. In all cases, the suits were quickly withdrawn with no reason given, although that often occurs when owners or charterers agree to post security.

Most recently, ING secured an arrest order in the New Orleans federal court against Navios Maritime Acquisition's 25,000-dwt Nave Cosmos (built 2010) over nearly \$348,000 that the bank says it is owed by charterer Integr8, including costs and interest. ING's lawyers at King, Krebs & Jurgens withdrew the lawsuit the same day.

The bank also secured arrest orders for two ships owned by Italy's Rizzo Bottiglieri on 20 March in different courts, records show.

The 87,300-dwt RBD Italia (built 2010) was arrested off New Orleans but was quickly released. The case centred on a bunkers purchase by the shipowner for which ING claims it is owed nearly \$1.29m.

And a federal judge in Norfolk, Virginia, issued a similar order against the sistership Maria Cristina Rizzo but he ordered the ship released within days. ING alleged it was owed nearly \$940,000 for fuel purchased from OW.

Similarly, ING filed a lawsuit against the Itochu-owned, 4,510-teu Cosco Nagoya (built 2008) over \$651,000 but withdrew the case before an arrest order was issued.

OW's US entities are undergoing a Chapter 11 restructuring in the US Bankruptcy Court in Bridgeport, Connecticut, that is separate from the parent company's liquidation proceedings in Denmark, where the marine fuels giant was headquartered.

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