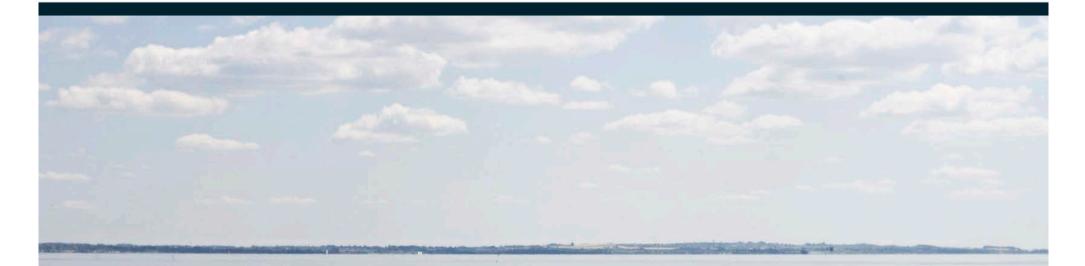
BECH-BRUUN



Challenges following the OW Bunker Group collapse

The International Maritime Law Seminar, 1 October 2015 by Johannes Grove Nielsen, Bech-Bruun

BECH-BRUUN

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Owners/Charterers options:

Do Nothing? Interpleader? Set off? Rescission?

OW Bunkers/Banks' and Physical Supliers options:

BUNKER

OIL

Do nothing? Arrest? Recognition order?

BUNK

OIL

n

Claim for payment / Retention of title / lien

Claim for payment / Retention of title / lien

W Bunker

Reten

Claim for bayment

C/P: No ien clause

CHARTERER

Claim for payment

Claim for payment I Retention of title I lien

Derivative Contracts

ISDA 2002 Master Agreement - Section 2(a)(iii)



• Each obligation of each party under Section 2(a)(i) is subject to (1) <u>the condition</u> precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing

OWB General Terms and Conditions for Derivatives Trading – Clause 3.3

• Payments under this Agreement will only be required to be made by a party subject to <u>the condition precedent that no Event of Default with respect to the other party</u> <u>has occurred and is then continuing</u>

Payment obligations suspended

The Danish Securities Trading Act – S. 58H

- With legal consequences for the estate and the creditors, an agreement may be made to the effect that if a breach arises, cf. subsection (1), close-out netting shall not be effected until the non-defaulting party gives notification to the defaulting party.
- In situations where the defaulting party is made subject to insolvency proceedings, said party may, however, demand that the close-out netting be carried out in such a manner that the conditions applicable to the parties are the same as they would have been if close-out netting had been effected without undue delay after the time when the non-defaulting party knew, or should have known, that the defaulting party was made subject to insolvency proceedings.

