

Callidus News

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SYNOPSIS ON LEGAL IMPLICATIONS OF BEING A SHIP AGENT



Introduction:

Ship agents as the word itself specifies are the agents of the Ship owners or managers or Charters at a designated Port.

It is a Principal Agent relationship, whereby the principal, expressly or impliedly authorizes the agent to work on his behalf.

Responsibilities of Ship's Agents:-

Responsibilities of a ship's agents include but are not limited to the following:

- ✓ Ensuring a berth for the ship
- ✓ Arranging for the pilot and the tugs
- ✓ Documentation for the customs and harbour services
- ✓ Arranging for the necessary ship fresh water and provisions
- ✓ Arranging for the necessary doctor for the crew and any medical assistance
- ✓ Arranging for storage bunkers, if needed
- ✓ Arranging for the necessary repairs upon instructions
- ✓ Conveying instructions to and from the ship owner
- ✓ Organizing the supply, transport and the handling of the goods to its onward final destination
- ✓ Organizing the necessary contacts with the stevedores

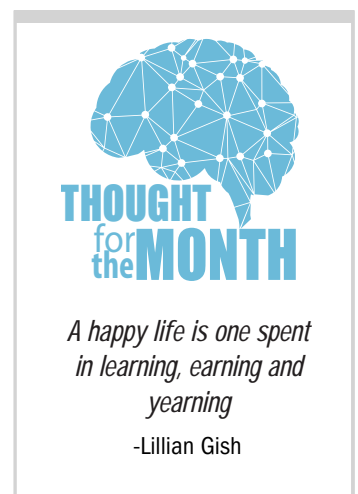
- ✓ Collecting freights, cargoes etc.
- ✓ Contacting shippers at POL and the receivers/consignees at POD.

Needless to mention that in the case of damage to cargo or the ship, the ship agent upon instructions from the Owners of the Vessel, also makes the necessary arrangements for surveys/ inspections etc.

Liability:-

In many countries, the ship agents acting on behalf of the Principals can find themselves involved in the claims, as a result of joint and several liabilities with their principal, which can be attributed either to local law or Port Statute. Claims can include cargo damage, customs duty and penalties, removal of wreck, abandoned cargo by the consignee etc. Although in normal course, these liabilities are that of the Principal's responsibility or their P&I, but the agents end up paying for the same on several occasions mainly due to being an easy target in the eyes of Port/customs which find it convenient to recover these monies from them instead of proceeding against foreign based Principal.

There is also an increasing trend by the traders to bring contractual claims against ship agents when the law is clear that an agent of a disclosed Principal is not liable for any act,



omission or breach of the contract by his principal. These actions however are only resorted by the traders to put pressure on a local party (agents) to pay up and for obtaining security for the claim, having said that it is also pertinent to mention that there are no real protective measures that agents or carrier can adopt against such tactics other than proper precautions to be taken against these non-meritorious actions and proceedings.

Major problem arises when agents are dealing with the Single Ship companies and by the time the claim amount is recovered or the claim is filed, the Principal had sold the ship

and will cease trading, in which case the agent will be left to deal with the claim by itself.

Conclusion:-

The Agents should act pro-actively while dealing with ships at ports on behalf of their Principals. Immediately upon becoming aware of any potential claim while the ship is still in port premises, attempts should be made to obtain Principal's P&I letter of Guarantee (LOG) before the ship sails out of port. Wordings of the LOG should be checked to ensure sufficient safeguard to the agents is provided in the LOG including legal cost, in the event of non-coverage of claim or refusal by Principal's P&I, the agents

should alternatively seek Guarantee from Principal from a nationalized bank which will properly safeguard the interest of the agents.

Another possible recourse is to seek arrest of the Principal's ship, for the recovery of the actual claim by the port for damage to their property by Principal's vessel.

In any event, Agents should immediately inform/notify the Principal of the loss/claim and should try to seek written confirmation on indemnity. A written confirmation from the principal about their P&I handling the matter protecting both owners as well as agents' interest shall suffice in certain cases.



PRICE WATERHOUSE SCAM

On January 11, The Securities and Exchange Board of India banned Price Waterhouse, a multinational professional audit services firm, from issuing any audit report or audit certificate directly or indirectly for two years commencing from April 2018. The said order comes as a result of Price Waterhouse being found guilty of aiding Rs.8000 Crore Scam in the Sathyam Case. The partners of Price Waterhouse have also been barred from issuing audit certificates to listed companies for three years. They were also asked to pay Rs 13.09 crore, along with interest at 12% per annum from January 2009 within 45 days.

Price Waterhouse meanwhile had come forward, saying that the order passed by the Securities and Exchange Board of India is contradictory and not in line with the order passed by the Bombay High Court in 2011. Price Waterhouse has been defending themselves for more than 10 years on the same stand that they had no part or knowledge on the scam done by the CEO of Sathyam. The case was being investigated by the Securities and Exchange Board of India on the scam since it came to light during January 2009 when the CEO of Sathyam admitted to have fudged the books of accounts for several years.

Price Waterhouse has now stated that they are disappointed by the findings of the Securities and Exchange Board of India since the order relates to a fraud that happened in 2009 in which Price Waterhouse did not have any role.

What's next for Price Waterhouse?

Price Waterhouse is planning to appeal against the order passed by the Securities and Exchange Board of India, since the order is not in line with the order passed by the Bombay High Court in the year 2011 and they are very confident on getting a stay against the order passed by the Securities and Exchange Board of India.



TIPS & HOT NEWS

How to travel on a budget : 9 best tips from EF Blog

1 Come up with a plan

Travelling spontaneously is great, if you have the luxury of time and money to spare. But if you're travelling on a budget, the first thing to do is come up with a plan. You don't have need a tight, hour-by-hour itinerary, but you should at least have an idea of how long you'll be spending in each city or country, and know the route that your epic adventure will take. Leaving less to chance means less unexpected

spends; last-minute flights and accommodation are often far more expensive.

2 Travel out of season

Avoid trips during the school holidays, this is when the travel industry hikes up prices to take advantage of families who can only travel during these weeks. Research the best time to visit your intended

destination, and then travel just before or after these dates. This is called the 'shoulder season', where you'll still have a great trip but maybe the sun won't shine quite as brightly (and, on the plus side, it won't be quite as hot.) Hotels and airlines lower their prices to attract customers during this time. win.

3 Be accommodation-savvy

Trade expensive hotel suites for dorm rooms in hostels. Sharing a room naturally divides the costs and communal bunk rooms offer the opportunity to meet people who might be keen to explore with you. Other great alternatives are websites like AirBnB and Couchsurfing, where you simply book a spare room in a local person's house or apartment. It'll halve the price and allow you an authentic snapshot of real life in the city. Consider your host your very own, personal tour guide, filled with insider-tips for the best eateries and tourist spots in that neighbourhood.

You could even stay with family or friends. Reach out to people you know or plan a trip to somewhere that a long-lost cousin or school friend now lives – this could take you to visit places you'd never have thought of before.

4 Pack properly

Make sure you bring everything you need so that you don't have to shop while you're away (apart from a few souvenirs). No matter where you're heading, take at least one pair of long jeans, warm hoodie and waterproof jacket for unpredictable weather incidents.

5 Book flights in advance...

Especially return flights; running out of money abroad without a guaranteed ticket home is never ideal. Airlines 'release' their flight seats up to a year in advance and the closer you get to your departure date, the more the prices increase, especially in the last month.

6 Be smart about how you fly

Opt to travel on a Tuesday. Midweek travel prices are lower as a premium is added to weekend flights and you'll breeze through shorter queues at airport check-in desks and security. Fly economy too – there's no need to upgrade, no matter how nice Business Class looks. The money you save on cheap seats can be spent on food or accommodation when you arrive. Low-cost, budget airlines are fine for short flights and regularly have cheap deals. If you're planning a weekend trip try to pack light and use only hand luggage, saving yourself a bit of money on hold luggage.y.

7 Embrace public transport

Buses and trains are cheaper than planes. It's that simple! A journey on an overnight train also means you have one less night in a hostel to pay for...

8 Don't eat away your cash

Cheap lunches can be bought in a supermarket or even a local fresh food market, rather than in an overpriced cafe or restaurant. Aim to wander around before choosing a place to eat dinner too; if you just pick the first restaurant you see you won't know if you're overspending. Drinking beer with every dinner soon adds up – both your wallet and your waistline will thank you if you opt for water instead sometimes. Alternatively, hostels and spare rooms often let you have access to a kitchen if you want to save a little money by cooking for yourself.

9 Earn while you travel

Working holidays are a brilliant way to afford to spend several months of the year (or more) living the travel dream: Teach skiing on a winter season, take care of holidaymakers travelling to the Mediterranean in the summer, or earn by teaching a language in Thailand; you could even freelance while traveling if you're able to work "on the go". The opportunities are literally endless.





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