



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



Payment of Overdue Commission Fees Secured

Intervention of global provider of professional indemnity insurance to transport professionals, the International Transport Intermediaries Club ([ITIC](#)), has secured overdue payment of a shipbroker's ship sale and purchase commission.

The shipbroker had reportedly acted as the buyer's broker and signed a commission agreement with the seller whereby the seller agreed to pay US\$68,000 to the shipbroker upon the completion of successful delivery and receipt of the purchase monies for the subject ship.

"Despite the successful delivery and receipt of the purchase monies by the seller, the seller did not pay the commission, claiming that a dispute had arisen with the buyer relating to bunkers and that they would not pay any commission until the dispute over bunkers was resolved," stated ITIC.

Approached on the matter by the shipbroker, the ITIC contacted the seller and advised that as the deal had been successfully concluded, "therefore commission must be settled without further delay".

"They argued that they were not happy with the shipbroker's performance and that they would not pay any commission until the dispute over bunkers was resolved.

"ITIC made it very clear that the dispute arose after the successful completion of the sale and purchase transaction, and that the seller had received the full payment for the ship from the buyer. Therefore, it had nothing to do with the sale contract itself.

"Further, ITIC explained that the shipbroker, as buyer's broker had no duties and/or liabilities to the seller since they only acted for the buyer. Therefore, the argument that the seller was not happy with the shipbroker's performance was without merit."

ITIC advised the seller that if the commission was not settled immediately, it would "take whatever legal steps necessary to assist the shipbroker including, but not limited to, commencing legal proceedings".

"Shortly thereafter, ITIC received the seller's agreement to pay the shipbroker's commission less US\$1000 in respect of legal fees they had incurred. The shipbroker agreed to the deduction and were paid US\$ 67,000 the next day."

ITIC has over 90 years' experience providing mutual insurance coverage to companies in the marine, naval architecture, aviation, offshore and hydrographic industries, and is said to have about 3400 members in over 110 countries.

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