



# ***DEL ROSARIO PANDIPHIL Inc.***

## **Philippine Shipping Updates – Manning Industry**

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., February 20, 2009

This issue contains the following:

Club Letter of Guaranty (CLOG) now officially accepted as security for NLRC appeal bonds

POEA requires weekly update on vessel enrolment and crew orders

Ship agent for trampers no longer jointly and severally liable

Proposed Magna Carta for Seafarers

FAME symposium on shipping crisis on March 18, 2009

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### **Club Letter of Guaranty (CLOG)**

The NLRC recently issued an En Banc Resolution No. 25-08 declaring that Letters of Guaranty issued by the **International Group of P&I Clubs** shall be acceptable as valid collateral for the surety/appeal bonds filed before the NLRC. This issue stemmed from rulings of some Divisions of the NLRC dismissing the appeals filed on behalf of vessel interest on the ground that the appeals were inadequate as the CLOG submitted together with the appeal is not considered “security deposit or collateral securing the bond” as required by the NLRC Rules of Procedure.

Manning industry leaders assisted by our law firm brought this issue, among others, to the attention of the NLRC en banc and after presenting our position, the NLRC Chairman and the 21 NLRC Commissioners resolved to confirm that CLOGs are acceptable.

### **Weekly Updates on the Global Crisis**

POEA Memorandum Circular No. 01 Series of 2009 issued on 4 February 2009 mandates all manning agencies to submit weekly updates of the effect of the global crisis on their vessel enrolment and crew orders every 10<sup>th</sup> and 25<sup>th</sup> of the month. This is in reference to the previous POEA Advisory No. 29 Series of 2008.

The said directive also specified that **failure of an agency to submit reports will hold them liable** in accordance with the 2003 POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers.

The required form for updating can be downloaded at the POEA website as <http://www.poea.gov.ph>

### **Ship agent in tramp service no longer jointly and solidarily liable**

Republic Act No. 9515 entitled “An Act Defining the Liability of Ship Agents in the Tramp Service and for Other Purposes” was signed into law on December 19, 2008. The new law has removed the joint and several liabilities of tramp agents. The law does not appear to cover manning agents.

Tramp Agent is defined as a ship agent appointed by the ship owner, charterer or carrier in the tramp service for one particular voyage whose authority is limited to the customary and usual procedures and formalities required for the facilitation of a vessel's entry, stay and departure in the port and does not include the assumption of the ship owner's, charterer's or carrier's obligations with the shipper or receiver for the goods carried by the ship (Sec. 1c, RA 9515). The law clearly states that the liability of the tramp agent "shall not extend to the obligations assumed by the ship owner, charterer or carrier with the shipper or receiver for the goods carried by the ship" (Sec. 2, RA 9515).

## Magna Carta for Seafarers

The author thanks Mike Estaniel for advising us of this proposed bill in the House of Representatives (in substitution of House Bills 170 and 2966). The Committee on Overseas Workers' Affairs of the House of Representatives has already started consolidating the various proposals on the provisions of the bill. The proposed bill appears to incorporate the Maritime Labor Convention of 2006 including various other matters. The manning industry should ensure that they involve themselves in the public hearings on the bill.

## FAME Symposium on Shipping Crisis to be held March 18, 2009

FAME will hold a symposium to address the shipping crisis. Goals of the symposium are: to keep abreast with the prevailing global crisis and its impact on the local manning industry and to develop strategies and action plans to cope with the crisis and ensure the sustainability of the Philippine Manning Industry.

The morning session will cover a situation report and discuss the current state of the global shipping industry in relation to the crisis. The break-out sessions in the afternoon will cover principal and crew retention; seafarer competitiveness on wages and skills; crew training and cadetship and risk management: crew liabilities and abandonment.

Registration can be made thru email at [fame@eastern.com.ph](mailto:fame@eastern.com.ph) or [fame@fame.org.ph](mailto:fame@fame.org.ph)

This publication aims to provide commentary on issues affecting the manning industry, analysis of recent cases and updates on legislation. It is meant to be brief and is not intended to be legal advice. For further information, please email [ruben.delrosario@delrosario-pandiphil.com](mailto:ruben.delrosario@delrosario-pandiphil.com).

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