IN THE MATTER OF THE PALMTREE ARBITRATION ACT
AND IN THE MATTER OF AN ARBITRATION
BETWEEN:

BIGBANK (GERMANY)

Owners/Claimant

-and-

SHADOWFLEET INC

Charterers/Respondent

MT "SHADY" / Charterparty dd 15 January 2020

MOCK ARBITRATION FOR ICMA 2026

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1. The topic is relief from forfeiture in relation to bareboat charterparties, in the context of sanctions.

SCENARIO

2. The parties have chosen arbitration on the Island of Palmtree. Palmtree is an autonomous Pacific Island state which in recent years has attracted a great deal of international arbitration work by developing a panel of high calibre arbitrators; by retaining a retired Singapore judge to act as the sole judge of its Commercial Court (which applies an Arbitration Act very similar to the Singapore International Arbitration Act); and in particular by popularising a standard arbitration clause which reads as follows:

> **Any dispute arising under or in relation to this contract shall be determined by arbitration in Palmtree, applying Palmtree law. Palmtree law shall be based on the law of England and Wales save where the arbitral panel consider it would be unfair or unjust to follow English law.**

3. What has proved particularly popular with users of Palmtree arbitration are the robust procedural rules which include the following:

   3.1. All hearings are to be completed in 90 minutes or less.

3.2. Skeleton arguments are not to exceed 5 pages.

3.3. Arbitral panels must give their decision and brief reasons immediately on the close of oral argument.

3.4. Counsel whose speeches exceed the permitted length, and arbitral panels who fail to meet the requirement of instant decision making, are prohibited for life from undertaking any further work on Palmtree-seated arbitrations.

4. Palmtree arbitrations are invariably held in public, usually on the beach, and it is well established that the arbitrators may, if they wish, ask questions of the audience, or take an indicative (but non-binding) vote.

5. Very occasionally Palmtree arbitrations take place off the island, and today is a rare example of that.

6. This is the second and final hearing in a maritime dispute.

7. The Tribunal heard evidence at the first hearing and made various findings of fact, and the second hearing has been convened to determine what consequences should flow from the facts as found.

8. The case arises from a long-term bareboat charterparty of an oil tanker, MT Shady, currently worth $25m. The Charterers are Shadowfleet Inc of Liberia. The Owners are BigBank of Germany.

9. Shadowfleet originally owned the Vessel. In late 2019, they needed to raise finance and so they sold her to BigBank for $30m and chartered her back on a bareboat charter for an 8 year term at $5m per year, which also gave them the right to (re)acquire the Vessel for a final payment of $5m when the term expired (the Internal Rate of Return is about 9%).

10. The charterparty contains a provision that says that if the Vessel is used in a way that breaches applicable sanctions, including carrying a cargo in breach of any applicable sanctions, the charterparty can be terminated by Owners and the Vessel must thereupon be returned to Owners.

11. In January 2025, the 8-year charterparty had 3 years left to run. The first 5 years' worth of hire payments were paid on time.

12. Following an STS transfer in Russian waters, Charterer's sub-charterers used the Vessel to carry a cargo of Russian oil priced at $5/barrel in excess of the applicable price cap. The Owners, BigBank, discovered what had happened and terminated the charterparty in accordance with the charterparty terms.

13. No sanctions were imposed by the relevant authorities.

14. The Tribunal made the following important findings of fact:

    14.1. Shadowfleet were in breach of the relevant charterparty clause.

    14.2. BigBank was entitled under the charterparty terms to terminate the charterparty, and had done so according to its terms.

    14.3. Shadowfleet did not know that their subcharterer was breaching sanctions, but had they exercised proper care they would have realised. They were not reckless, but they were negligent.

15. The case now returns to the Palmtree Arbitral Tribunal to decide what should happen.

16. BigBank's case is simple:

    16.1. There has been a breach of the CP provision;

    16.2. That clause permits BigBank to terminate, and that is what BigBank has done;

    16.3. There is no right to relief from forfeiture in a case like this.

17. But Shadowfleet contends that:

    17.1. This has all happened through no real fault of Shadowfleet, although it accepts that had it had better KYC procedures it would have discovered that its subcharterer was carrying a cargo in breach of the price cap;

    17.2. If BigBank is allowed to retain the vessel, that will be grossly unfair on Shadowfleet;

17.3. The Tribunal has power to grant relief from forfeiture, and should exercise that power in this case.

18. There are no relevant statutes or case law under Palmtree law. It is anticipated that the focus will therefore be on the law of England and Wales or other common law jurisdictions, and whether it would be unjust to apply that law to the instant case.

HEARING TIMETABLE

19. The parties have considered and agreed the following timetable for the hearing:

19.1. 20 minutes: Introductions and explanation of the case and the issues.

19.2. 15 minutes: Owners' Counsel submissions (leader and junior).

19.3. 25 minutes: Charterers' Counsel submissions (leader and junior).

19.4. 10 minutes: Owners' Counsel Reply submissions.

19.5. 15 minutes: Audience vote on result and each of the Tribunal members gives their decision.