

Association of Ship Brokers & Agents (USA) Inc.[View this email in your browser](#)**FEBRUARY 2018**

SHIP BROKERS AND DISPUTE RESOLUTIONS

Today, ship brokers are increasingly called upon to resolve disputes between their principals, the owners and charterers. At a time when the industry is going through profound changes and is faced with new challenges, web based trading platforms and recap/charter party editors, it is important to provide additional value to the process and in particular services that are not easily performed by a computer. There is an increasing resistance among the principals to go through agonizing, time consuming and expensive legal proceedings. Some principals will call their broker before they call their lawyer. Most disputes are over such issues as laytime, demurrage and dispatch calculations, but there are also contemporary issues while the voyage is still in progress, like safe berths, cargo specifications etc. In such cases, brokers are often in a unique position to identify an issue before it becomes a major problem. This is a value added service brokers could be providing.

Dispute resolution can be rewarding for the broker, if all works out well. But, the ship broker must also recognize the potential downside. First, assisting with dispute resolution can be very time consuming and the broker might rather use his time to conclude another fixture. Second, if the mediation attempt doesn't go well, it could alienate his customer. The broker could even lose a customer as a result. If a case is unfolding in such a way, the broker must recognize the point where all parties would be better off if he steps away from the process. In such cases, the Society of Maritime Arbitrators (SMA) offers some useful tools, Mediation and Shortened Arbitration Procedure. These are alternatives to full arbitration or court proceedings and they are significantly less costly and can be executed quickly.

The SMA recently updated its mediation rules and has over 20 trained mediators among its members. Mediation is a voluntary and informal procedure where the parties decide the outcome, rather than having a decision made for them by a court or arbitration panel. A neutral mediator with industry expertise is appointed by the parties. The parties agree to a procedure time table and exchange of documents, as needed. The mediator can meet with the

parties jointly, individually or both and will offer suggestions for settlement to the parties. The result of the mediation is not legally binding until a settlement agreement is signed. At such time, it is enforceable, with the necessity of legal enforcement unlikely as the parties have just agreed to the terms for settling the case. Mediation is often completed in a very short period of time and it can be kept completely confidential. If unsuccessful, normal legal avenues can be pursued and are not affected by the mediation attempt.

The Shortened Arbitration Procedure is designed to minimize costs while expediting the process. It calls for the use of a single arbitrator and has a specific procedure if the parties cannot agree on one. It stipulates that the proceedings shall be based on documents only, as opposed to hearings, which are time consuming and costly. It sets forth a time schedule of the proceedings and stipulates the fees for both the arbitrator and the compensation of legal costs for the prevailing party. The Shortened Procedure is normally incorporated in a general arbitration clause as applicable for disputes below a certain dollar amount.

Mediation and the Shortened Arbitration Procedures are much more in line with today's business environment in the world of ship chartering than traditional full blown arbitration and court proceedings. Many ships are now commercially managed by pools consisting of hundreds of vessels. Charterers have merged into large entities representing huge amounts of cargo. Charterers and owners meet each other in the market place on an almost daily basis and have adopted a much more pragmatic and less emotional attitude to problems, which have been part of the market for decades, if not centuries. Ship brokers often act as "first responders" in an arising dispute and are successful in resolving the dispute in more than 99% of the cases. For the remaining less than 1%, the SMA offers these two perfect solutions.

The full rules for Mediation and Shortened Arbitration Procedure can be found on the SMA website: www.smany.org

*Written by: SOREN WOLMAR, QuinnCannon Associates, Inc.
ASBA & SMA Director*

ANNUAL GENERAL MEETING

[LINK TO EVENT PHOTOS](#)

We enjoyed excellent attendance at this year's Annual Meeting, the support of those present is most appreciated! The agenda was very full and included approval of the slate of officers and directors with Paul Hirtle of N.W. Johnsen & Co. elected as President. Outgoing President, Chris Young reported that his goal of

promoting greater participation by all members at ASBA events was accomplished as evidenced by a successful conference as well as better attended socials and golf outing. Members also approved a major revision to the ASBA ByLaws that will now support the Association as it operates today. Jan-Willem van den Dijssel of Cargill Ocean Transportation was our guest speaker and provided member ship brokers and agents much food for thought regarding a view of the maritime industry in the near future.

Paul Hirtle, Jeanne Cardona, Jan-Willem van den Dijssel, Chris Young





Steen Pedersen,
Jan-Willem van den Dijssel,
Christian Zerilli, John Paul Marchetti

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Bob Ryke, Juan Carlos Charris,
Jim Black



Gabe Slutsky, John Grubb,
Manny Xidias, Mike Keane

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David Chenowith,
Harald Stavnes, Ignacio Cardona





INVITE YOU TO A COCKTAIL RECEPTION

**Monday, March 12, 2018
6:30 - 8:30pm**

**HUDSON GRILLE
128 Bedford Street, Stamford, CT**

RSVP no later than noon on Thursday, March 8.



The ASBA CUP is BACK!

NEW COURSE ~ NEW FORMAT

Monday, May 7, 2018

\$300 per Golfer
Hole Sponsors are Welcome

**Registration and Lunch - 11:30 am
SHOT GUN Start - 1:00 pm
Followed by cocktails, dinner & prizes**

Mount Kisco Country Club

10 Taylor Road, Mt. Kisco, NY
Mount Kisco Country Club was established in 1928 as a private member owned country club.
[Link to Mount Kisco CC](#)





TANKER BROKER HOUSTON LUNCH EVENT

February 15, 2018

Marc Bayer, Endeavor - Guest Speaker

Tanker Broker Member Sponsors

Dietze & Associates
L & R Midland
MJLF & Associates
McQuilling Partners
Maersk Brokers America
MCA Associates
Poten & Partners
Quincannon Associates
Simpson | Spence | Young
Charles R. Weber Company

[LINK TO EVENT PHOTOS](#)

Best wishes are extended to

**Gerry Eder - North Harbour Shipping
Frank Gaudio - Gulf Stream Tanker Chartering**

**who are participating in the
2018 FONASBA
YOUNG SHIP AGENT & BROKER AWARD**



CALENDAR OF EVENTS

check our website for event and course details

www.asba.org

March 12, 2018 [ASBA Baltic Reception](#) – Stamford, CT

May 7, 2018 [ASBA Cup Golf Tournament](#) – Mount Kisco Country Club, NY

Aug. 10, 2018 [YSBA NY Yankees vs TX Rangers](#) – Yankee Stadium, NY

Sept. 26–28, 2018 [ASBA Annual Cargo Conference](#) – Miami, FL

November 12, 2018 [ASBA Pre-Holiday Social](#)

**WELCOME NEW
AFFILIATE MEMBERS**

OceanConnect Marine Inc.
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**WELCOME NEW
COMPANY MEMBER**

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**REINSTATED
COMPANY MEMBER**

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**MEMBERS
ON THE MOVE**

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**North American Shipping
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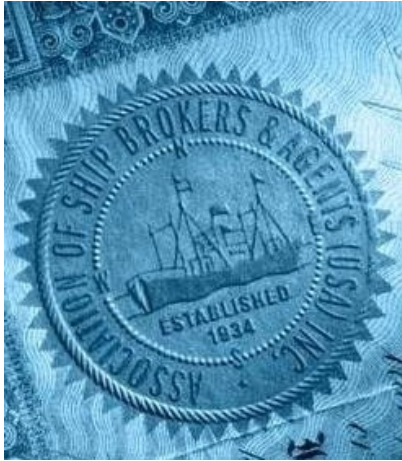
Basil A. Santini

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IN MEMORIAM

Jean Pierre Bigotte
 Co-Founder of Bingham & Bigotte

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 wosmer@ckor.com



Congratulation Students!

Shipbroking & Chartered Vessel Operations

- Shaianna Adams
- Matei S. Chiselenco
- John Joseph Cyr
- Daniela Reyna Gargurevich
- Daniel Hosemann
- James C. LaBau III
- Lori J. McGarity
- Martina L. Murphy
- Dave Murray
- Kemmeh Orji
- Yuliya Robins
- Thomas P. Stewart
- Alexey Syto
- Damien E. Tayman

Basic Principles of Chartering

- Patrick Connor
- Michael McCormack
- Heather Thoensen

Agency Seminar Philadelphia, PA December 1, 2017

- Kevin Chambliss
- Brian J. Kastner
- Richardson Vil

Commercial Trade Transactions

- Mikhail Ralenko

ASSOCIATION OF SHIP BROKERS & AGENTS (USA) INC.

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