



**MALTA**

**QORTI CIVILI  
PRIM'AWLA**

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**Today, the 4<sup>th</sup> of November, 2015.**

**Application Number 1003/2013**

**Sebastian Antonio Vlasblom  
(passport ND7L3RK1) ghan-nom  
tas-socjeta` Sven Erik Vlasblom BV  
Socjeta` estera registrata gewwa  
Hellevoetsluis, I-Olanda bin-numru  
ta' registrazzjoni 24490187 kif  
debitament awtorizzat**

**vs.**

***Falcontainers Limited (C54447) u  
Deep Sea Containers Limited  
C36872***

The Court,

- 1.0. Having seen the application dated the 18th October, 2013, through which the applicant *nomine* briefly submitted the following:

- 1.1. That the complainant company he is representing offers consultancy services in shipping and in trades in containers in general, and offers other ancillary services;
- 1.2. That during the past months it rendered consultancy services to the defendant companies, (see folio 4);
- 1.3. That the sum of five thousand four hundred fifty-nine Euros and fifty-two cents, (€5,459.52), is due to it for said consultancy services offered them on their instructions;
- 1.4. That it also lent the sum of thirteen thousand five hundred and sixty-two Euros and fifty four cents (€13,562.54), to the said defendant companies so that they could invest in new containers;
- 1.5. That the defendant companies now owe the overall sum of nineteen thousand and twenty-two Euros and sixteen cents, (€19,022.16);
- 1.6. That although there were several requests for payment, the defendant companies remained in default;
- 1.7. That hence, complainant company has adhered to this court so that the defendant companies would have the opportunity to say why this court should not:
  - 1.7.1. Liquidate the amount of five thousand four hundred and fifty-nine Euros and fifty-two cents, (€5,459.52), due to the complainant company from the defendant companies, or either of them;
  - 1.7.2. Establish the sum indicated in the preceding paragraph as a credit in favour of the complainant company due to it by the defendant companies, together with the commercial interest due from the 20th January, 2013, until due payment;
  - 1.7.3. Condemns the defendant companies, or either of them, to pay the complainant company the total

sum of nineteen thousand and twenty-two Euros and sixteen cents, (€19,022.16), as for the sum of €5,459.52 representing consultancy fees rendered as assigned by the defendant companies, and as for the sum of €13,562.54 representing the loan that was granted to the defendant companies by the complainant company, together with further interest running from the 17th November, 2012, at the rate of 8% on the said loan until date of due payment;

1.7.4. Together with all due legal fees and other expenses, including V.A.T. and legal interest due until final payment;

2.0. Having seen the sworn reply dated the 27th November, 2013, whereby the defendant companies briefly replied accordingly:

2.1. That preliminarily the application is not according to proper procedure and is to be rejected as a creditor should not use one action to put forward two (2) different and unconnected claims against two (2) alleged debtors who also have no connection whatsoever with each other;

2.2. That the defendant company *Falcontainers Limited* pleads that it has no juridicial relationship with the complainant company as regards part of the submitted claim;

2.3. That the plea contained in the above paragraph is also valid with regards to defendant company *Deep Sea Containers Limited* as regards part of the submitted claim addressed in its direction;

2.4. That the amount indicated in the invoice issued to defendant company *Deep Sea Containers Limited* is excessive, (see folio 21);

3. Having seen its decree dated the 28th November, 2013, whereby, at the request of the legal representative of the defendant companies, ordered that proceedings be

conducted in the English language according to law, (see folio 77);

4. Having seen the records of the proceedings dated the 23rd June, 2015 , (see folio 245), and after hearing the legal representative of the complainant society submit that as it will not be possible for him to conduct the due cross-examination of the representatives of the defendant companies as they are facing deep financial troubles, he was requesting that the evidence they submitted be struck off the records of these proceedings, (see folio 245);
5. That after hearing the legal representative referred to above, after considering the the legal representatives failed to appear on the appointed day and finally, after seeing that said defendant companies had three successive opportunities ranging from the 4th February, 2015, to the 23rd June of the same year, to submit themselves to cross-examination;
6. That as no reason whatsoever was submitted for their non-appearance, it accepted the request and ordered that said evidence be taken off the records of the proceedings, (see folio 245);
7. Having heard the evidence submitted by the witness;
8. Having examined the relative documents presented;

Considers:

- 9.0. That the case may be briefly drawn up as follows:
  - 9.1. That the complainant company rendered consultative financial services to both defendant companies, (see folio 81);
  - 9.2. That the defendant companies were both involved in container services, (see folio 81);
  - 9.3. That "... in reality there is no difference between the two (2) defendant companies", (see folio 81), as they have

the same shareholders but, different directors, (see folio 81);

- 9.4. That the complainant company lent the sum of €13,562.54, to both defendant companies for them to purchase seven (7) containers, (see folio 81 and folio 4);
- 9.5. That in actual fact the said containers were bought by the complainant company and handed them over to the defendants who utilized some for their commercial activities, (see folio 82);
- 9.6. That the invoice dated 14th September, 2013, (see folio 4) also includes the monthly consultancy fee concerning the movement of containers from various countries to Malta, (see folio 82);
- 9.7. That salaries for services rendered were paid interchangeably by the two (2) defendant companies, (see folio 82);
- 9.8. That financial statements were duly sent to the defendant companies for them to settle but, to no avail, (see folio 83);
- 9.9. That the amount due to the complainant company for consultancy services rendered to the defendant companies amounts to €5,459.52, (see folio 4);
- 9.10. That the amounts due by the defendant companies remained unpaid;

Considers:

10. That the above claims submitted by the complainant company are duly substantiated, (see folio 4 and folio 84 *et sequitur*);
11. That although defendant companies submitted due evidence through their representatives, said evidence was struck off the records of the proceeding as they

failed to submit themselves to cross-examination according to law, notwithstanding the fact, that they were given more than ample time to do so, and this, without giving any reason;

12. That the court is satisfied that the beneficiaries of the loan and consultancy were both defendant companies who acted in unison, also having the same shareholding mass;

Considers:

- 13.0. That on the basis of the above, the court is satisfied that the complainant company as duly represented in these proceedings, has proved its case and consequently:

- 13.1. Rejects all the replies submitted by the defendant companies;

- 13.2. Acquiesces to the requests submitted by the complainant company as represented and therefore:

- 13.2.1. Declares that the amount of €5,459.52 is due to the complainant company jointly and severally from the defendant companies;

- 13.2.2. Declares that the sum indicated in the above paragraph was a credit due to the complainant company from the defendant companies, together with commercial interest;

- 13.2.3. Condemns the defendant companies to pay the complainant company the total sum of €19,022.16 jointly and severally, and this:

- 13.2.3.i. As for €5,459.52 for consultancy fees rendered to the defendant companies; and

- 13.2.3.ii. As for €13,562.54 for the loan granted to the defendant companies by the complainant company for the

containers that were handed over to them for their use;

- 13.2.4. Condemns the said defendant companies jointly and severally to pay the relative interest due on the amount indicated in the paragraph immediately before this at the rate of 8% from the 17th November, 2012, up to the date of due payment;
- 13.2.5. Condemns the same said defendant companies to pay all legal fees and other expenses, including V.A.T. and legal interest due until final payment.

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Onor. Imhallel Silvio Meli

**DECIZJONI FINALI**