

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re:	: Chapter 11
	: .
SEA CONTAINERS LTD., <i>et al.</i> ,	: Case No. 06-11156 (KJC)
	: (Jointly Administered)
Debtors.	: .
	: Related to Docket No. 2016
	: .
	: Hearing Date: September 3, 2008 at 10:00 a.m.
	: .
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**RESPONSE OF MICHAEL J. L. TRACEY TO DEBTORS' FOURTH
OMNIBUS OBJECTION (NON-SUBSTANTIVE) TO CLAIMS**

Michael J. L. Tracey ("Tracey"), by his counsel, K&L Gates LLP, hereby responds to the Debtors' Fourth Omnibus Objection (Non-Substantive) to Claims (the "Claims Objection"), and in support thereof states as follows:

BACKGROUND

1. Tracey was employed as an executive of Sea Container Ltd. ("SCL") and Sea Containers Services Ltd. ("SCSL") from 1973 until his retirement in May 1992.¹
2. During the term of his employment, Tracey received pension and reumuneration from SCL and SCSL, and Tracey is a member of the Sea Containers 1983 Pension Scheme (the "1983 Pension Scheme").
3. On or about December 18, 1986, Tracey, SCL and SCSL entered into a letter agreement (the "December 18 Letter Agreement"), pursuant to which SCL and SCSL agreed to provide Tracey with enhanced pension benefits, including the right to draw pension

¹ After his retirement in May 1992, Tracey provided consulting services to SCL and SCSL, and Tracey is presently a Non-Executive Director of SCL.

benefits beginning on his 60th birthday in an increased amount of two-thirds of his final pensionable salary.

4. Moreover, pursuant to the December 18 Letter Agreement, SCL and SCSL independently agreed to pay any additional costs associated with Stracey's enhanced benefits that the 1983 Pension Scheme is unable to satisfy.

5. Specifically, the December 18 Letter Agreement states:

Your total pension and widow's pension entitlements will henceforth be determined in accordance with the provisions of the Sea Containers 1983 Pension Scheme (details of which you already have) except that your Normal Retiring Date will be your 60th birthday. Your membership of the 1983 Pension Scheme will continue as at present, but your pension on retirement at the reduced Normal Retiring Date will be increased to 2/3rds of your final pensionable salary. Any additional amounts necessary to fund the extra benefits resulting from your reduced Normal Retiring Date which will be payable to or in respect of you from the 1983 Pension Scheme will be paid from the companies (i.e. Sea Containers Ltd. and Sea Containers Services Limited) to the 1983 Pension Scheme in proportion to your earnings from those companies.

* * *

Any extra cost to the Scheme which cannot be met from the funds available in the Scheme will be met entirely by the companies.

See SCL Claim No. 81 at Ex. A; and SCSL Claim No. 82 at Ex. A.²

6. On October 15, 2006, SCL and SCSL each filed voluntary petitions for relief pursuant to Chapter 11, Title 11 of the United States Code.

7. On July 13, 2007, Stracey filed Proof of Claim No. 81 against SCL's bankruptcy estate, asserting claims for pension benefits he is owed under the 1983 Pension Scheme, which benefits SCL also agreed to pay under the December 18 Letter Agreement.

² True copies of SCL Claim No. 81 and SCSL Claim No. 82 are attached hereto as Exhibits A and B, respectively.

8. On July 13, 2007, Stracey filed Proof of Claim No. 82 against SCSL's bankruptcy estate, asserting claims for pension benefits he is owed under the 1983 Pension Scheme, which benefits SCSL also agreed to pay under the December 18 Letter Agreement.

9. A copy of the December 18 Letter Agreement is attached to each of Mr. Stracey's proofs of claim.

10. On July 9, 2007 the Trustees of the 1983 Pension Scheme filed proofs of claim against the SCL and SCSL bankruptcy estates on account of certain funding deficiencies and other claims arising under the Trust Deed and Rules of the 1983 Pension Scheme (the "Trustees' Proofs of Claim").

11. The Debtors filed the Claims Objection on July 25, 2008. In the Claims Objection, the Debtors seek to expunge and disallow Stracey's proofs of claim, arguing they are duplicative of the Trustees' Proofs of Claim.

RESPONSE

12. Stracey's proofs of claim are not duplicative of the Trustees' Proofs of Claim. While Stracey is covered by the 1983 Pension Scheme and is entitled to receive benefits from the Scheme, as set forth in the December 18 Letter Agreement, Stracey also holds independent claims against SCL and SCSL for any amounts owed to him that the 1983 Pension Scheme is unable to pay.

13. Because Stracey holds independent claims against SCL and SCSL for the payment of certain retirement and pension benefits SCL and SCSL independently agreed to pay, his proofs of claim do not duplicate the claims asserted in the Trustees' Proofs of Claim, and Stracey's claims should not be expunged as duplicative.

14. The Claims Objection also incorrectly states that Stracey's proofs of claim against SCL and SCSL were filed in the amounts of \$340,000.00 and \$349,285, respectively.

While Stracey's annual pension benefits totaled approximately \$350,000 as of July 9, 2007, Stracey's independent claim against the Debtors is not limited to that amount. Rather, as reflected in his proofs of claim, Stracey has claims against the SCL and SCSL estates for the cumulative annual pension benefit he is entitled to receive for the remainder of his life, which annual benefit is subject to an annual increase of 3%. Stracey's claim also includes his spouse's right to receive a survivor's benefit equal to 50% of Stracey's annual benefit if Stracey predeceases his spouse. Accordingly, the SCL and SCSL claims registers should be amended to correctly reflect Stracey's claims.

15. Stracey reserves all of his rights to amend and/or supplement this response and to otherwise take all additional actions necessary to prosecute his claims against the Debtors' estates.

WHEREFORE, Stracey respectfully requests that the Court deny the Claims Objection insofar as it relates to Stracey and grant such other and further relief as this Court deems just and proper.

Dated: New York, New York
August 25, 2008

K&L GATES LLP

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