
NewLead fires back in dispute over coal fixture

Greek shipowner's mining affiliate files counterclaims against commodities trader in failed-charter case

NewLead Holdings is seeking to turn the tables in the legal battle launched by trader TransAsia Commodities in New York over a collapsed coal deal.

The Greek shipowner's mining joint venture, Newlead JMEG, has now filed counterclaims against the London outfit alleging that TransAsia fraudulently induced it to sign a coal purchase agreement (CPA) by claiming to have access to credit that it did not have.

As TradeWinds has reported, TransAsia sued NewLead in December claiming that the company, which has moved into US mining, was signing multimillion-dollar agreements to sell coal that it did not have as part of an effort to inflate its share price on the Nasdaq stock exchange.

In addition to denying those allegations, NewLead's Reed Smith lawyers argue that Trans-Asia claimed it had access to credit facilities and access to banks that could deliver a letter of credit needed to make the sale happen.

"Upon information and belief, TransAsia's representations were false when made, and were made in an intentional attempt to defraud NewLead JMEG into entering the CPA," wrote Reed Smith lawyer Oliver Beiersdorf. The counterclaims allege TransAsia submitted a false letter of credit from BNP Paribas to an unnamed shipowner for the vessel to carry the coal and delivered another letter of credit from NBAD Private Bank for the coal, even though the CPA required a letter from BNP. BNP is also NewLead's bank and did not accept the NBAD document.

As TransAsia allegedly failed to supply a letter of credit that complied with the deal, NewLead requested prepayment, the counter-claim says.

"TransAsia breached the CPA before the CPA was to be fulfilled," wrote Beiersdorf.

NewLead owns two bulkers, two tankers and has an order for one newbuilding. In a change of direction, the company teamed up with Jan Berkowitz's J Mining & Energy Group in April 2012 to form NewLead JMEG with planned acquisitions of coal mines in Kentucky and Tennessee.

Piraeus-headquartered NewLead, led by Michael Zolotas, has asked New York Supreme Court Judge Charles Ramos to dismiss Trans-Asia's lawsuit.

A lawyer for TransAsia could not be immediately reached to comment on NewLead's counter claims.